

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 14419 OF 2016

Sandeep Balu Kamble and anr.	.. Petitioners
Vs.	
Mahesh Miraso Khandekar and anr.	.. Respondents

Mr.Dhairyasheel Sutar, for the Petitioners.

CORAM : M.S.KARNIK, J.
DATE : 23rd OCTOBER, 2018

P.C. :

- . Heard learned Counsel for the Petitioners.
2. By this Petition filed under Article 227 of the Constitution of India, the Petitioners have challenged the order dated 29/07/2016 passed by the Civil Judge, Junior Division, Kurundwad below Exhibit 17 thereby setting aside the exparte order against defendant No.1 and No WS order against defendant No.2 subject to costs of Rs.700/- . In the Suit filed by the Petitioners for declaring sale deed dated 17/05/1985 is not binding on the Plaintiffs and that the same is null and void, the

summons came to be duly served on the defendants on 26/12/2014. Since defendant No.1 remained absent, ex parte order was passed on 29/12/2014. Though defendant No.2 appeared but he did not file written statement within the statutory period. Hence, No WS order came to be passed on 19/03/2015. The application came to be filed by the Respondents - defendants on 18/11/2015 for taking written statement on record.

3. Learned trial Judge was pleased to allow the application. Learned Counsel for the Petitioners submits that there is delay of 8 months in filing written statement. He invited my attention to the application made and submits that no satisfactory reasons have been given by the Respondents in the said application precluding them from filing the same. In his submission, as the trial Court has recorded that no satisfactory reason is given in the application for condoning the delay, the trial Court was not justified in allowing the application.

4. I have gone through the order passed by the learned trial Court. The learned trial Judge has in the interest of justice allowed the application and set aside the ex parte order passed against Respondent No.1 and No WS order as against Respondent No.2. Written Statement is duly filed on behalf of both the Respondents. The learned trial Judge has allowed the application subject to costs of Rs.700/-. Even costs have been deposited. In this view of the matter, I do not find any reason to interfere with the order passed by the trial Court as the order made is in the interest of justice. The Petition is dismissed with no order as to costs.

(M.S.KARNIK, J.)