

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

981 WRIT PETITION NO.12157 OF 2019

TAPASWINI PANCHPHULABAIJI AMBEDKAR
VERSUS MIRABAI DILIP SONAWANE AND OTHERS

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Advocate for Petitioner : Shri Tripathi M.P.
h/f Shri Ghute Patil K.J.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: October 04, 2019

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PER COURT :-

1. The petitioner / plaintiff in RCS No.139 of 2016 is aggrieved by the order dated 6.2.2019, by which, the trial Court has allowed application Exhibit 31 filed by defendants 1 to 3 and has set aside the 'No Written Statement' and 'No Cross Orders' by imposing costs.

2. I have considered the strenuous submissions of the learned Advocate for the petitioner and have gone through the seven grounds formulated in the memo of the petition. Contention is that though the suit is less than three years old, it had reached the final stage as the three defendants had not filed their written statement and had not led any evidence. The trial Court should not have allowed Exhibit 31 and should have proceeded with the suit without the written statement and evidence of the defendants.

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3. I find from the record that the petitioner desires to recover Rs.8,40,000/- from the defendants. Defendant No.3 is under medical treatment at Nasik and Bombay. He is the father of defendants 1 and 2. They have to assist him for medical assistance, being 73 years old as on date. In this backdrop, the 'No Cross' order was passed in early 2018 and the evidence of the defendants was closed on 5.6.2018.

4. I find that though the defendants have been casual in dealing with the suit and have failed to submit their written statement within time, if Exhibit 31 is rejected, they would be practically rendered remediless and defenseless. The trial Court has passed an equitable order in order to avoid multiplicity of litigation.

5. In view of the above, I do not find that the impugned order can be branded as being erroneous, perverse or likely to cause grave injustice to the petitioner. This petition, being devoid of merits is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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