

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10003 OF 2019

Surya @ Amrin Gaousoddin Maniyar ...Petitioner

Versus

Gaousoddin Allahabaksh Maniyar ...Respondent

.....
Mr. V.V.Bhavthankar, Advocate for the Petitioner.
.....

CORAM : RAVINDRA V. GHUGE, J.

DATE : 13-08-2019.

PER COURT :

01. The petitioner original plaintiff is aggrieved by the Order dated 29.3.2019 passed by the Trial Court by which the application Exh. 16 filed by the defendant in Special Civil Suit 24/2018 has been allowed and the "No WS Order" dated 11.6.2018 has been set aside by imposing cost of Rs. 2,000/-.

02. The plaintiff and defendant are husband and wife. The plaintiff has filed the suit for seeking a declaration of ownership. The defendant failed to file his written statement and had moved an adjournment application which was rejected on the ground that no sufficient cause has been shown. The "no WS Order" was

passed on 11.6.2018. Application Exh.16 was filed by the defendant on 29.11.2018. The petitioner filed her reply on 8.1.2019 and the impugned Order was passed on 29.3.2019.

03. The learned Advocate for the petitioner has strenuously criticized the impugned Order. He draws my attention to the averments and the grounds set out in the memo of the petition.

04. I find that the suit property is a residential house property. The plaintiff and the defendant are said to have strained relations. No doubt, delay has been caused and the application for setting aside "No WS Order" has been filed after 5 months of the Order.

05. Notwithstanding the above, the fact remains that the house property is sought to be shared by the plaintiff. The defendants would be practically rendered defenceless if the written statement is not on record. The delay does not appear to be inordinate or deliberate. The Trial Court has imposed cost of Rs. 2,000/- on the defendant.

06. Considering the above, I do not find that the impugned Order could be termed as perverse or erroneous or likely to cause gross injustice to the petitioner.

07. This petition, being devoid of merit, is therefore, dismissed.

[RAVINDRA V. GHUGE]

JUDGE

Dahibhate/-