

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

927 WRIT PETITION NO.8920 OF 2014

BABASAHEB BALBHIM SANAP AND ANOTHER
VERSUS
ULHASBAI TULSHIRAM SHIRSATH, L.RS. MHASU TULSHIRAM
SHIRSATH AND OTHERS

...
Advocate for Petitioners : Mr.Badakh Vishal S.

...

CORAM : M.S.KARNIK, J.
Dated: August 22, 2019

PER COURT :-

None present for the respondents, though they are duly served. The petitioners, by this petition, are challenging the order dated 26.6.2012 for setting aside the No W.S. Order. By the order dated 26.6.2012, the trial Court refused to allow the defendants to file Written Statement on the count that the delay in filing the Written Statement was not properly explained. The learned counsel for the petitioners/ Original defendants urged that the suit proceedings were transferred from the Court of Ahmednagar to the court of the Civil Judge, Junior Division, Pathardi. They did not have information about the said transfer and therefore, the

petitioners/defendants could not file the reply within time.

2. No one appears on behalf of the respondents/Original Plaintiffs, though they are duly served. Though I do not find that the explanation offered by the petitioners is not so satisfactory, considering the fact that they have deposited a sum of Rs. 5,000/-, as directed by this Court in the Trial Court, to show bonafides and also taking into consideration that the valuable right of the defendants to defend the suit should not be taken away for want of filing the Written Statement, I am inclined to set aside the order passed by the Trial Court by imposing the cost of Rs. 5,000/-. The said amount of Rs. 5,000/- already been deposited in the Trial Court pursuant to the order passed by this Court be paid over to the plaintiffs.

3 In the result, the petition is allowed. The

impugned order is set aside. The Written Statement which has already been filed on record, be taken on record.

(M.S.KARNIK)

JUDGE

mahajansb/