

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO.7 OF 2019

JITENDRAKUMAR NEMICHAND BAKLIWAL AND OTHERS  
VERSUS  
NAWALKUMAR SITARAM BAKLIWAL AND OTHERS

Mr.G.R.Syed, Advocate for the petitioners.  
Mr.V.I.Thole, Advocate for respondent No.3.

**( CORAM : Ravindra V.Ghuge, J.)**

**DATE : 26/09/2019**

PER COURT :

1. This matter was heard extensively on 24/09/2019 and was posted today for passing orders.

2. The learned Advocates for the respective sides, after considering the pros and cons in this matter, pray for the dismissal of this petition. The learned Advocate for the petitioners submits on instructions that the first written statement filed by defendant No.5 dated 24/01/2018 alongwith application Exh.134, could be accepted.

3. The learned Advocate for defendant no.5 submits that his client

has now realized that application Exh.134, praying for setting aside of the “No W.S. Order” dated 02/04/2016, should not have been withdrawn, by which the first written statement dated 24/01/2018 was filed on record. He has subsequently noticed certain documents and based on the said documents, he would file an application for seeking leave of the Trial Court either to tender an additional written statement or to seek an amendment. The learned Advocate for the petitioners submits that he would oppose such an application on its merits and would also canvass that the admissions given in the written statement cannot be withdrawn.

4. In view of the above, this petition is partly allowed. The impugned order dated 22/10/2018 is modified. Instead of application Exh.158 being allowed, application Exh.134 would stand allowed and the “No W.S. order” dated 02/04/2016 shall stand set aside. The written statement filed by defendant No.1 dated 24/01/2018, which was tendered alongwith Exh.134, shall be taken on record.

5. In the event defendant No.5 moves an application for seeking leave to file an additional written statement or to amend the written statement, the Trial Court would consider the said application strictly

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on its own merits and by considering the objections of the litigating sides.

**( Ravindra V.Ghuge, J.)**