

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

903. WRIT PETITION NO. 1651 OF 2019

Sakhahari Vitthal Tathe and others ...Petitioners

VERSUS

Namdeo s/o Laxman Gangawane and others ...Respondents

Mr. A.A. Khan, Advocate for petitioners.

CORAM : RAVINDRA V. GHUGE, J.

DATE : 19th June, 2019

PER COURT:

1. The petitioners, who are original defendants, seek to challenge the order dated 26th November, 2010 passed by the Trial Court thereby rejecting their application Exh. 42 praying for vacating "No written statement" order dated 9th January, 2002 in Reg. civil suit No. 183 of 1997.

2. The learned Advocate for the defendants submits that all these defendants are illiterate and do not know that they had to file their written statement. They were not aware about their rights. Valuable rights are involved in the suit of 1997. The interest of justice may be considered.

3. I find from the record that “No written statement” order was passed on 9th January, 2002 which is more than 17 years ago. The suit is of 1997. The suit was dismissed in default on 7th December, 2002 and was restored by an order dated 8th September, 2008. I could have considered this petition had the petitioners been diligent. Despite knowing that the suit has been restored on 8th September, 2008, application Exh.42 was filed on 25th June, 2010, which is almost after two years. Moreover, when the order of the Trial Court rejecting application Exh. 42 was passed on 26th November 2010, the petitioners have sought to challenge the said order after more than 8 years.

4. Considering the above, I do not find that any sympathy needs to be shown towards these petitioners.

5. In view of the above, this petition is dismissed.

(RAVINDRA V. GHUGE)
JUDGE

Madkar