

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
**WRIT PETITION NO. 4465 OF 2018**

|                             |                 |
|-----------------------------|-----------------|
| Ravindra Bhuja Bhagwat      | .. Petitioner   |
| Vs.                         |                 |
| Laxmi Sitaram More and ors. | ... Respondents |

Mr. Aniket P. Ranade, for the Petitioner.  
None present for Respondents.

**CORAM : M.S.KARNIK, J.**

**DATE : 08<sup>th</sup> FEBRUARY, 2019**

**P.C. :**

.           The petitioner is the original defendant No.1. The present respondent No. 1 - original plaintiff filed Suit before the Court of Civil Judge, Junior Division, Lanja for declaration, mandatory injunction and possession.

2.           The Suit is filed for mandatory direction to demolish the unauthorised construction allegedly carried out by the petitioner without permission and for handing over vacant

possession of the suit property. Pursuant to the issuance of the suit summons, the original defendant No.1 did not file the written statement within the prescribed time. On 14/08/2014, 'No WS' order came to be passed. The petitioner applied for setting aside the 'No WS' order by filing application at Exhibit 39. The said application Exhibit 39 came to be rejected by the trial Court on the ground that there is delay of 2 years and 10 months in filing the application for setting aside 'No WS' order. The application came to be rejected by the impugned order on the finding that the petitioner was unable to explain a satisfactory explanation for the delay.

3. I have gone through the application Exhibit 39. The plaintiff has sought for mandatory directions from the trial Court for demolition of the house property, which is a residential house in possession of the petitioner, on the ground that the same has been constructed unauthorisedly and without valid permission. The plaintiff has also claimed possession of the suit land over which the house is constructed. The reason stated by

the petitioner in the application Exhibit 39 is that took him long time to collect revenue records which are necessary for his defence. The trial of the Suit is yet to commence. Considering the nature of the relief sought and the reason as stated in the application, in my opinion, the present Petition deserves to be allowed subject to payment of costs of Rs.2,500/- to the plaintiff. Cost be paid within a period of 2 weeks from today. Written Statement is directed to be taken on record. The Petition is therefore allowed in terms of prayer clause (a).

**(M.S.KARNIK, J.)**