

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2332 OF 2017

Shri. Vinayak Bandu Raut (Patil)	..Petitioner
V/s.	
Ashok Yashwant Rawate & Ors.	..Respondents

Ms. Anusha P. Amin I/b. Mr. Sandesh D. Patil, Advocate for the Petitioner.

Vidhya Korgaonkar I/b. Amar Bhatt, Advocate for the Respondents.

CORAM : S.C. GUPTE, J.
DATED : 18th July, 2019.

P.C.

Heard learned Counsel for the parties. This application challenges an order passed by Civil Judge, Junior Division, Vada, rejecting the application of the Petitioner (original plaintiff) for setting aside a “No Written Statement Order” passed against him in respect of the counter claim filed by the Respondent (original defendant) in the former's suit, being R.C.S. No.23 of 2013. No WS Order was passed against the Petitioner in respect of the Respondents' counter claim, since the written statement to counter-claim was not filed within 90 days of filing of the counter claim. The application of the Petitioner was on the basis that he could not file his written statement to the counter claim, since he was not in possession of some important documents at the relevant time. Considering the

facts and circumstances of the case, it is in the interest of justice that the Petitioner be permitted to file his written statement to the counter claim filed by the Respondent in his suit. He may, however, be saddled with costs. Accordingly, the impugned order of the trial court is quashed and set aside and the application being Exhibit 22 in R.C.S. No.22 of 2013 is allowed subject to the Petitioner herein paying costs quantified at Rs.15,000/-. The written statement shall be filed within a period of four weeks from today. Payment of costs, however, shall be condition precedent. Such costs should be paid by the Petitioner to the Respondents within a period of three weeks from today.

(S.C. GUPTE, J.)