

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13453 OF 2017

Shri Pandit Dada Bhusare
Special Land Acquisition Office and anr. .. Petitioners
Vs.
Shri Dnyaneshwar Dattatraya More and ors. .. Respondents

Mr.Sachin Kankal, AGP for State- Petitioners.
Mr.Rahul D.Motkari, for Respondent No.1.

CORAM : M.S.KARNIK, J.

DATE : 14th JANUARY 2019

P.C. :

. The Respondent No.1 - original plaintiff filed a Suit before the trial Court for recovery of amount of Rs.36 lacs and also for interest @ 18 % p.a. According to the plaintiffs, defendant No.1 (petitioner No.1) lodged FIR against the plaintiffs on the ground that they being stamp vendors unauthorisedly scanned photographs of different persons who had sold some stamp papers purchased by them from different purchasers. In short the plaintiffs filed the Suit for damages on account of malicious

prosecution instituted by the defendants against them.

2. Summons were duly served on 17/12/2013. Thereafter 'No WS' order was passed. By an application at Exhibit 21 dated 10/10/2014, the defendants prayed that the 'No WS' order dated 04/09/2014 may be set aside. The defendants prayed for setting aside 'No WS' order on the ground that due to some administrative difficulty, the defendants could not file the written statement within time. In reply, the plaintiffs opposed the application and submitted that in case in the event the application is allowed, the same be subject to costs of Rs.10,000/-.

3. Learned Counsel for the respondent No.1 - Shri Motkari supported the impugned order.

4. From the record I find that delay in applying for setting aside 'No WS' order is not inordinate and reasons given by the defendants that due to some administrative work, the

written statement could not be filed deserves to be accepted subject to payment of costs quantified at Rs.5,000/- payable to the plaintiffs.

5. In this view of the matter, present Petition is allowed in terms of prayer clause (b) subject to cost of Rs. 5,000/-. The Petitioner to file written statement within a period of two weeks from today if the same is not already on record of the trial Court. Costs of Rs.5,000/- to be deposited in the trial Court within a period of two weeks from today with a liberty to the plaintiffs to withdraw the same.

6. Writ Petition is disposed of.

(M.S.KARNIK, J.)