

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1118 OF 2017

Shri Ganesh Maruti Bhuruk and Ors. ... Petitioners

Vs

Zeal Education Society and Ors. ... Respondents

...

Mr. Parshuram M. Khankar for the Petitioners.

Mr. S.C.Wakankar for the Respondent No.1.

CORAM : SANDEEP K. SHINDE J.

DATE : AUGUST 7, 2019

P.C. :

Heard both the sides.

2 Petitioners are the defendant nos.40,41 and 42 in Special Civil Suit No.1719 of 2006 instituted by one Zeal Education Society and other two seeking specific performance of contract/agreements dated 22nd February, 2005 and 12th June, 2005.

3 Petitioners/defendants no.40 to 42 were served and they caused their appearance on 15th April, 2008. Defendants did not file their Written Statement in time and, therefore, “No WS Order” was passed. Petitioners thus requested the Trial Court on 26th October, 2015 to set aside the “No WS Order, however, the Trial Court

declined to set aside the said order against which this Writ Petition is preferred under Article 227 of the Constitution of India.

4 The learned counsel for the respondents/original plaintiffs has brought to my notice prayers in the suit whereby plaintiffs are seeking specific performance of the suit agreements against the defendant nos.1 to 28 only. It is also brought to my notice on 4th September, 2006, petitioners/ plaintiffs had executed the sale deed in favour of the original plaintiffs in respect of their interest in the suit land. Sale deed is at Page 41 of the paper-book.

5 The learned Trial Judge thus, correctly taken into consideration facts of the case and declined to set aside the “No WS Order”. No error is committed while rejecting the application of the petitioner.

6 That even otherwise it is informed across the bar that the suit is posted for pronouncement of the judgment. That for the

reasons here-in-above, there is no merit in the Writ Petition and it is dismissed accordingly.

(SANDEEP K. SHINDE, J.)