

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.4021/2019

Sau Prabha W/o Govind Sontakke

..Vs..

Smt. Vimal Vinayak Kalambe

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mrs. S.K. Paunikar, Advocate for the petitioner.

CORAM : Z.A. HAQ, J.

DATED : 12.6.2019.

Heard.

The petitioner / defendant failed to file written statement before the trial Court for about three years. Learned trial Judge passed an order on 6th June, 2016 directing that civil suit to proceed without written statement of the defendant. Subsequently, the defendant filed the application (Exh. No.24) praying that the order dated 6th June, 2016 be recalled and permission be granted to the defendant to file written statement. This application is rejected by the impugned order.

The petitioner has come out with the reason that she was not keeping well and was under treatment because of which she could not file written statement within time. Learned trial Judge has observed that the defendant is not diligent in prosecuting the matter and lapses on her part continued after filing of the application (Exh. No.24) also.

Be that as it may, petitioner / defendant has

not filed documentary evidence to substantiate her claim that she was not keeping well and was under treatment. At the time of hearing, learned Advocate for the petitioner has produced certificate issued by her doctor which show that the petitioner was under treatment from 30th May, 2017. There is nothing on record to show that the petitioner was not well before 30th May, 2017.

In the facts of the case, I find that there are no *bona fides* on the part of the petitioner and the lapses on her part in not filing written statement also cannot be said to be *bona fide*. Hence, I see no reason to interfere with the impugned order. The writ petition is **dismissed**. No costs.

JUDGE