

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

Writ Petition No.3610/2018

(Sou.Sushama w/o Sudhakar Rao Bhalerao Vs. Sujata w/o Anil Dahake)

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

Court's or Judge's orders.

Mr. A.S.Bhalerao, Advocate for the petitioner.
Mr. U.A.Gosawi, Advocate for the respondent.

CORAM : Manish Pitale, J.
DATED : March 13, 2019.

This is a writ petition challenging the order dated 16.02.2018 passed by 5th Joint Civil Judge, Junior Division, Nagpur (Trial Court), whereby an application filed by respondent no.1 (original defendant no.4) to file written statement has been allowed.

2. It is the contention of the petitioner that the impugned order is cryptic and no reasons have been assigned by the Trial Court for allowing the application of respondent no.1 and permitting him to file written statement after a long delay. It is submitted that the written statement was sought to be filed long after the mandatory period for filing written statement was over.

3. Perusal of the impugned order does show that it is cryptic and no reasons have been assigned for allowing the application of respondent no.1. At the same time, it has come on record that although the suit was of the year 2002, respondent no.1 was added as defendant no.4 in the year 2015 and that the attempt to

file written statement was made in December 2016. Although, respondent no.1 failed to file written statement within the mandatory period yet, in the interest of justice, it would be necessary that the written statement of respondent no.1 is on record so that the Trial Court can decide the lis between the parties on merits. At the same time, the Trial Court failed to take into consideration the inconvenience caused to the petitioner (original plaintiff) due to permission being granted to respondent no.1 to file written statement after expiry of the mandatory period.

4. In view of the same, although, in the interest of justice, this Court is not interfering with the impugned order, the same is modified and respondent no.1 is directed to deposit costs of Rs.10,000/- (Rs.Ten thousand only) within a period of four weeks from today before the trial Court, with liberty to the petitioner to withdraw the same. If such amount towards costs is not deposited within the aforesaid period, the impugned order would stand set aside.

5. Writ Petition is disposed of.

JUDGE

ambulkar