

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

902 WRIT PETITION NO.3667 OF 2019

MARATHWADA DEPRESSED CLASS LEAGUE HOSTEL NANDED,  
THROUGH ITS SECRETARY  
VERSUS  
NANDED WAGHALA CITY MUNICIPAL CORPORATION THROUGH ITS  
MUNICIPAL COMMISSIONER, NANDED

.....  
Advocate for Petitioners : Mr. Gangakhedkar Shailendra S.  
Advocate for Respondent-sole : Mr. R. K. Ingole  
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**CORAM : V. K. JADHAV, J.**  
**DATED : 15<sup>th</sup> JANUARY, 2020**

**PER COURT:-**

1. By consent, heard finally at admission stage.
2. It appears that the defence of the respondent-defendant was struck down for non-compliance of the order dated 5.9.2008. Learned counsel for the petitioners-original plaintiff vehemently submits that so far as the non-compliance of the order dated 5.9.2008 is concerned, the respondent-defendant has produced documents later on as per the directions of the Court. Learned counsel submits that there is an inordinate delay in producing the documents in compliance with the order passed by the trial court. However, by the impugned order, the trial court has allowed the application Exh.71 and set aside the order of striking down the defence.
3. I have also heard learned counsel appearing for the respondent.

4. On careful perusal of the impugned order, though it appears that on account of non-compliance of order dated 5.9.2008, defence of the respondent was struck down, however later on, though belatedly, the respondent-defendant has filed an application Exh.57 for production of documents in terms of the directions of the court. It is also observed by the trial court that the respondent-defendant has produced all documents which are claimed by the petitioner-plaintiff. In view of the same, since the respondent-defendant has complied with the order passed by the trial court, there is no point to keep this petition so also the suit pending. The petitioner is the original plaintiff and as such, he should proceed with the hearing of the suit. It has also been pointed out by the learned counsel that the plaintiff has already adduced evidence and it is likely to be over within a short period. In view of this, I proceed to pass the following order:-

#### O R D E R

- I. Writ petition is hereby dismissed.
- II. Writ petition is accordingly disposed of.

**( V. K. JADHAV, J.)**

rlj/