

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

WRIT PETITION NO.14302 OF 2017

DILEEP NAGORAO CHONDE AND ANOTHER  
VERSUS  
SUNITA DILEEP CHONDE AND OTHERS

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Advocate for Petitioners : Mr. P N Muley h/f Ambad S.A.

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CORAM : V.K. JADHAV, J.  
Dated: January 31, 2020

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**PER COURT :-**

1. Heard the learned counsel for the petitioners.  
Leave to correct the prayer clause. None appears for the respondents/original plaintiffs though duly served.

2. In the pending suit, the Trial Court has passed 'No W.S. order' as against the petitioners-defendants on 27.1.2017. The petitioners/defendants no.1 and 2 have filed an application Exh.17 for setting aside the 'No W.S.' order. By the impugned order dated 31.8.2017 the trial court has rejected the said application.

3. I have perused the contents of the application exh.17. It appears that the  
aaa/-

petitioners/defendants appeared in the suit in response to the suit summons on 5.11.2016. Petitioner no.1 is illiterate and simpleton person and petitioner no.2/original defendant no.2 was busy since his wife was hospitalized and under treatment at the relevant time. There are some other family functions and, therefore, the petitioners could not furnish requisite documents to the counsel appearing for them and, therefore, 'No W.S.' order came to be passed. Respondents/plaintiffs have instituted the suit for partition and separate possession. Thus, considering the entire aspect of the case, I am inclined to allow the application filed for setting aside the 'No W.S.' order on costs. Hence, following order.

### **O R D E R**

- I. Writ Petition is hereby allowed.
- II. The impugned order dated 31.8.2017 passed by the learned Civil Judge (Junior Division), Ambajogai, District Beed below Exh.17 in R.C.S. No.243 of 2016 is hereby quashed and set aside.

- III. Application Exh.17 is hereby allowed subject to costs of Rs.1,000/-(Rs. one thousand), which is already deposited before this Court.
- IV. The amount so deposited before this Court shall be transferred to the Trial Court and the trial court shall pay the amount to the respondents/plaintiffs.
- V. Writ Petition is accordingly disposed off.

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

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