

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

WRIT PETITION NO.10318 OF 2019

Madhukar Yadav Patil,
Age : 60 years, Occu : Agri.,
R/o : Udali (Kh), Tq. Raver
District : Jalgaon

... **PETITIONER**
(Org. Defendant No.1)

VERSUS

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|----|---|--------------------|
| 1. | Raghunath Hari Koli
Age : 76 years, Occ : Agri.,
R/o. Rangaon, Tq. Raver,
Dist. Jalgaon. | (Orig. Plaintiff) |
| 2. | Vanita Ashok Deshmukh
Age : 35 years, Occ : Agri., | (Org. Deft. No.2) |
| 3. | Aniket Ashok Deshmukh | (Org. Deft. No.3) |
| 4. | Puja Ashok Deshmukh | (Org. Deft. No. 4) |

No.3 and 4 Minor, through
Natural Guardian respondent
No.2, R/o. Gate, Tq. Raver
Dist. Jalgaon.

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|----|---|-------------------------|
| 5. | Namdeo Pandurang Koli
Age : 55 years, Occu : Agri., | (Org. Added Deft. No.1) |
| 6. | Nivrutti Pandurang Koli
Age : 48 years, Occu : Agri.,
Both R/o. Rangaon, Tq.
Raver, Dist. Jalgaon. | (Org. Added Deft. No.1) |

... **RESPONDENTS**

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Advocate for Petitioner : Ms. Seema T. Pawar h/f. Mr. Talhar Ajay G.
Advocate for Respondent No. 1 : Mr. Rathod Vinod N.

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CORAM : MANGESH S. PATIL, J.

DATE : 12.08.2021

ORAL JUDGMENT :

Heard. Rule. The Rule is made returnable forthwith. Learned
advocate for the respondent No.1 plaintiff waives service. With the consent

of both the sides, the matter is heard finally at the stage of admission.

2. The petitioner who is the defendant before the learned Civil Judge, Senior Division in a suit is impugning the order whereby the learned Judge rejected his application and thereby refusing him to file a written statement.

3. As can be noticed, the suit is touching a right to an immovable property. It is trite that the disputes should normally be decided on merits rather than by default. Assuming that the petitioner was lax in defending the suit, once he was ready to file the written statement, there were no strong and sufficient reason which could have prevented the learned Judge in allowing the request and if necessary by imposing some costs.

4. Considering the aforementioned facts and circumstances, in my considered view, the view taken by the learned Judge in the impugned order is too technical and would defeat the ends of justice.

5. The Writ Petition is allowed. The impugned order is quashed and set aside. The application filed by the petitioner on which the impugned order is passed stands allowed subject to his depositing a costs of Rs.5000/- in the trial court within two weeks. The respondent No.1 shall be entitled to claim the costs.

5. The Rule is made absolute.

(MANGESH S. PATIL, J.)