

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

WRIT PETITION NO. 9720 OF 2013

- (1) Annasaheb s/o Chandrakant Jawale,
Age 70 years, Occ. Agriculture.'
R/o Massa (Kh), Tq. Kallam, District
Osmanabad
- (2) Rupesh s/o Annasaheb Jawale, Age
35 years, Occ. Service, R/o as above .. **PETITIONERS**

V E R S U S

- (1) Anantrao s/o Goroba Kawade, Age
70 years, Occ. Agri., R/o Kanherwadi,
Tq. Kallam, District Osmanabad
- (2) Siddling s/o Shivling Dhole, Age : Major,
Occ. Agriculture, R/o as above .. **RESPONDENTS**

...
Shri S.N. Patne, Advocate for the petitioners
Shri A.R. Devakate, Advocate for the respondents
...

CORAM : MANGESH S. PATIL, J.

DATE : 25.11.2021

ORAL JUDGMENT :

Heard.

2. Rule. The Rule is made returnable forthwith. Learned counsel for the respondents waives service of notice. At the joint request of the learned Advocates, the matter is heard finally at the stage of admission.

3. In a suit for declaration and perpetual injunction filed by the respondent-plaintiff, the petitioners had failed to file written statement. By the impugned order, their request for permitting them to file written statement has been rejected.

4. I have heard both the sides. It is quite apparent that the dispute pertains to right of an immovable property. Though the petitioners were remiss in defending the suit by promptly filing written statement, they seem to have filed it belatedly.

5. It is trite that as far as possible the disputes are to be decide on merit. Procedure is handmaid of justice. The learned judge seems to have not born in mind these principles. He has taken a pedantic approach instead of pragmatic one.

6. The Writ Petition is allowed. The impugned order is quashed and set aside subject to the petitioners depositing costs of Rs.5,000/- in the trial Court within four weeks from today, which shall be allowed to be drawn by the respondents. On such costs being deposited, the trial Court shall allow them to file a written statement. The parties shall appear before the trial Court on 23.12.2021 and there shall be no need to issue notice or summons to them.

(MANGESH S. PATIL, J.)