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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2621 OF 2020**

Ananda Kisan More Petitioner.

V/s

Smt. Jijabai Kachru More & Ors. Respondents.

Mr. Prashant Darandale for the Petitioner.

CORAM: NITIN W. SAMBRE, J.

DATE: MARCH 2, 2021

P.C.:-

1] Heard the learned Counsel for the Petitioner/Plaintiff.

2] The order impugned is passed below Exhibit-58 whereby the Respondent/Defendant Nos. 23 to 26 are permitted to place on record their Written Statement by setting aside “No WS” order, subject to payment of costs of Rs 7000/-.

3] According to the learned Counsel for the Petitioner, on 14/7/2006, Trial Court has rejected the prayer of Respondents/Defendant Nos. 23 to 26 to place on record their Written Statement. Thereafter, again, application-Exhibit-24 was moved by them for

setting aside “No WS” order. On 7/12/2018 i.e. almost after 10 years, Application Exhibit-58 which is moved for placing Written Statement on record came to be allowed. He would urge that in a suit for partition the aforesaid order, particularly in view of delay caused, is not maintainable.

4] I have appreciated the aforesaid contentions.

5] It appears that suit is for partition and parties to the suit are claiming to be in blood relation. Of-course, there is inordinate delay in filing Written Statement on record by Defendant Nos. 23 to 26. However, Trial Court considering the stage of the suit has allowed the same, subject to payment of costs of Rs 7000/-.

6] The suit is at the stage of recording of evidence of the Petitioner/Plaintiff.

7] In the aforesaid backdrop, in my opinion, no prejudice is likely to be caused to the Petitioner if Defendant Nos. 23 to 26 are permitted to place on record their Written Statement as the interest of the

Petitioner is safeguarded thereby holding him to be entitled for costs of Rs 7000/-. No case for interference is made out. Discretion exercised by the Trial Court appears to be just and proper. However, costs of Rs 7,000/- is enhanced to Rs 15000/- which the Petitioner will be entitled to withdraw. Let the amount be deposited by Defendants 23 to 26 within a period of four weeks from the date of production of the order of this Court before the Trial Court.

8] Withe the above directions, Petition stands dismissed.

(NITIN W. SAMBRE, J.)