

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

**944 WRIT PETITION NO.8483 OF 2022**

DHANAPPA ALIAS BABURAO REVANSIDDHAPPA SAHANE  
VERSUS  
KALLINATH SHIVYOGI DHANGE AND OTHERS

...  
Advocate for Petitioner : Shri Santosh N. Patne  
Advocate for Respondent No.1 : Shri Abasaheb D. Shinde

...  
**CORAM : M.G.SEWLIKAR, J.**

**DATE : 20<sup>th</sup> August, 2022**

**PER COURT :-**

1. Shri A.D.Shinde, learned counsel appears for respondent No.1 *suo moto* and waives service of notice for respondent No.1.
2. Learned counsel for the petitioner does not press issuance of notice to respondent Nos.2 and 3 as they are formal parties and no relief is claimed against them. Therefore, notice is not issued to respondent Nos.2 and 3.
3. Respondent No.1 - Plaintiff has filed R.C.S.No.69 of 2017 for removal of encroachment. Defendant No.2 (petitioner herein) caused his appearance in the year 2017 itself. None of the defendants filed written statement. Therefore, suit proceeded without their written statement vide order dated 21<sup>st</sup> June, 2017.

On 14<sup>th</sup> June, 2022, petitioner - defendant No.2 filed application for setting aside "No WS order" alongwith the written statement. This application came to be rejected by the learned trial Court by its order dated 16<sup>th</sup> June, 2022.

4. Learned counsel for respondent No.1 has no objection for allowing the petition and allowing the written statement to be taken on record subject to payment of hefty costs of not less than Rs.1,00,000/-.

5. In view of this, petition is allowed subject to payment of costs of Rs.40,000/- to be paid within one month in the trial Court. Payment of costs is pre-condition.

**( M.G.SEWLIKAR )**  
**JUDGE**

SPT