

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

902 WRIT PETITION NO.865 OF 2011

RAJKUMAR ALIAS BAPURAO S/o. HANMANTRAO WADMURGE
AND OTHERS

VERSUS

RAJASHREE W/o. RAJKUMAR ALIAS BAPURAO WADMURGE
AND ANOTHER

...

Advocate for Petitioners: Mr. Balasaheb K. Pawar

Advocate for Respondent No. 1:

Mr. Ramrao D. Biradar

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CORAM: S. V. GANGAPURWALA, J.

DATE: 13th JANUARY, 2022

PER COURT:

1. The present Respondents have filed Regular Civil Suit No. 19 of 2010 for maintenance amount and for keeping charge of maintenance amount over land Survey No. 163 admeasuring 4 Hector 81 Are. The Suit summons were served upon the Petitioners. The Petitioner did not file his Written Statement. The Petitioner on or about 10.11.2010 filed application for setting aside the No Written Statement order. The said application is rejected on 19.11.2010.

2. I have heard the learned Counsel for the Petitioners and the learned Counsel for the Respondents.

3. The application is rejected as the Respondent had filed evidence close *purshish* and also the matter is kept for final arguments. The Plaintiffs submitted evidence close *purshish* on 18.10.2010 and the application was filed by the Petitioner for setting aside No Written Statement order on 10.11.2010.

4. This Court under order dated 14.02.2011 directed the Petitioner to deposit Rs.10,000/- in the Registry of this Court to show his *bona fides*. The said amount was not deposited within the stipulated period, as such, the present matter was dismissed. Thereafter, under order dated 02.09.2011 this Court restored the matter and extended the time to deposit the amount of Rs.10,000/- by 10 days. It is submitted that the amount of Rs.10,000/- was deposited within the extended period of time.

5. The matter pertains to keeping charge over the property allegedly owned by the Petitioners. The Petitioner has shown *bona fides* by depositing the amount as directed by this Court. It would be appropriate to grant one more opportunity to the Petitioner, however, the Petitioner also deserves to be mulct with further costs.

6. The impugned order rejecting the application of the Petitioner for setting aside the No Written Statement order is quashed and set aside. The application Exhibit-23 filed in Regular Civil Suit No. 19 of 2010 is allowed on following conditions-

[I] The Petitioner shall deposit further Rs.10,000/- within a period of four (04) weeks from today with the Trial Court where the Suit is pending.

[II] The Petitioner shall file Written Statement within four (04) weeks from today.

7. Failure to abide by any of the conditions above would result in the application Exhibit-23 being rejected.

8. If the Petitioner complies with the conditions as referred to above, then the Suit shall be disposed of expeditiously preferably within six (06) months.

9. The amount of Rs.10,000/- deposited by the Petitioner pursuant to the orders of this Court be transmitted to the Court of Civil Judge, Deoni where the Regular Civil Suit 19 of 2010 is pending.

10. The Writ Petition accordingly stands disposed of. No costs.

[S. V. GANGAPURWALA, J.]

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