

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8536 OF 2019

Sou. Pallavi Nilesh Mayekar

..Petitioner

Versus

Shri. Arun Maruti Kandhare and Ors.

..Respondents

Mr. Sudhir S. Hardikar, for the Petitioner.

CORAM : NITIN W. SAMBRE, J.

DATE : 18th FEBRUARY, 2022

PC.

1. In a suit for declaration, cancellation of gift-deed, partition and possession, the petitioner proceeded without Written Statement. The said order was set aside subject to deposit of cost, as could be noticed from the order dated 5th January, 2017 passed in Writ Petition No.2228 of 2015.

2. I am informed by the learned counsel for the petitioner that the trial in the suit is though commenced, if last chance in the interest of justice is given, the cost as directed shall be deposited as Written Statement is already placed on record. He would claim that only issues in the suit are framed and trial has not commenced.

3. Since the order passed is innocuous, notice to the other side is dispensed with.

4. This Court has already in Writ Petition No.2228 of 2015 referred above has shown indulgence in favour of the Petitioner/Defendant. Hence, the petitioner is directed to deposit cost of Rs.25,000/- (including Rs 5000/-) before the Court below within a period of four weeks from today, which the respondent/plaintiff shall be entitled to withdraw.

5. Subject to aforesaid compliance, Trial Court shall proceed with the suit by accepting Written Statement of the petitioner on record.

If order is not complied by the Petitioner, the Court below shall proceed with the suit without Written Statement.

6. The petition as such stands disposed of.

[NITIN W. SAMBRE, J.]