

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1405 OF 2023

Kalyan Vitthal Dole

Petitioner

Versus

1. Jay Shriram Sugar and Agro
Product Ltd., Through its Authorized
Person Hanmant Fakira Bhagyawant

2. Babasaheb Hambirrao Sole
3. Ramdas Gyanba Shinde

Respondents

Mr. S.R. Shirsat, Advocate for the petitioner.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 27th JUNE, 2023

ORDER :

1. Application filed by the petitioner/original defendant for setting aside no written statement order is rejected by the Trial Court. Petitioner is aggrieved by the said order.

2. Respondents/original plaintiffs filed Special Civil Suit No. 16/2017, for recovery of amount of Rs. 7,55,600/-. On receipt of suit summons petitioner appeared, but failed to file written statement within stipulated time. On 29.11.2017, Trial Court passed no written statement order against the petitioner. This order was signed by learned Judge of the Trial Court on 15.06.2018. The petitioner filed application Exhibit-31 for setting

aside no written statement order on 06.04.2022. This application is rejected. Hence, the present petition.

3. Heard the learned advocate for the petitioner. Though, respondents are duly served, none appears for them. Perused the memo of writ petition, annexures thereto and the impugned order.

4. Perusal of record shows that the reason of ailment, Covid pandemic, S.T. employees strike were not accepted by the Trial Court. In the impugned order, it is observed that, statements about ailment are vague and no document is produced on record in support of said contention. Since, no written statement order is passed on 29.11.2017 i.e. much prior to the covid pandemic and the strike of S.T. employees, Trial Court discarded those grounds.

5. No doubt there is delay of more than four years on the part of the petitioner in filing application for setting aside no written statement order, however, in the interest of justice and with a view to give fair and reasonable opportunity to the petitioner to contest the suit on merits, the impugned order is liable to be quashed and set aside.

6. In the result, writ petition is allowed.
7. Application Exhibit-31 is allowed, subject to the petitioner paying costs of Rs. 10,000/- to the respondents/plaintiffs in the Trial Court.
8. Petitioners shall file written statement within two weeks from the date of receipt of writ of this order. Since, the suit is of the year 2017, hearing of the suit is expedited.

[NITIN B. SURYAWANSHI, J.]