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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9748 OF 2017

Anil Rangnath CHochare

PETITIONER

VERSUS

Dattatray Kishanrao Yadav and Others

RESPONDENTS

.....

Mr. Ramesh V. Naiknavare, Advocate for the petitioner
Mr. G. J. Kore, Advocate for respondent No.1

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 7th SEPTEMBER, 2023

ORDER :

1. Leave to correct prayer clause.
2. The petitioner is aggrieved by order dated 8th June, 2017 passed by learned Joint Civil Judge, Senior Division, Osmanabad, below Exhibit 106 in Regular Civil Suit No. 556 of 2012.
3. As per the order passed below Exhibit-101, the petitioner / defendant No.1 was directed to deposit cost of Rs.7000/- for setting aside "no cross" order passed against him. By filing application Exhibit-106, learned advocate for the petitioner - defendant No.1 informed the Trial Court that since defendant No.1 is out of station, he could not be contacted and, therefore, on that day cost cannot be deposited. A prayer was, therefore,

made to grant short time to deposit the cost. The said application is rejected by the Trial Court, by the impugned order.

4. Having heard the learned advocate for the petitioner and learned advocate for respondent No.1 and after going through the writ petition memo, annexures and the impugned order, this Court is of the view that hyper technical approach is adopted by the Trial Court while rejecting the application of the petitioner. It is informed that the amount of Rs.7000/- is already deposited by the petitioner in the Trial court.

5. In that view of the matter following order-

ORDER

- A. Writ petition is allowed.
- B. Impugned order dated 8th June, 2017 passed by learned Joint Civil Judge, Senior Division, Osmanabad, below Exhibit-106 in Regular Civil Suit No. 556 of 2012 is hereby quashed and set aside.
- C. Amount of cost deposited by the petitioner be paid to the plaintiff.
- D. Considering the fact that the suit is of the year 2012, hearing is expedited.

[NITIN B. SURYAWANSHI]
JUDGE