

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

WRIT PETITION NO.10225 OF 2022

**SOU. ANUSAYA DADA SUDGE
VERSUS
SAU. MANGAL RAJU GUNJAL AND OTHERS**

...
Advocate for Petitioner : Mr. Shailendra S. Gangakhedkar
Advocate for Respondent No.1 : Mr. R.P. Bhumkar
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 08th SEPTEMBER, 2023

PER COURT :

1. Petitioner is aggrieved by the order dated 22/09/2022, passed by learned Joint Civil Judge, Senior Division, Shrigonda, below Exhibit-55 in Regular Civil Suit No.57/2018, thereby rejecting application filed by petitioner/defendant No.4 seeking permission to file written statement by condoning the delay.
2. Respondent No.1/plaintiff has filed the suit for partition and declaration that the sale deed dated 14/11/1995, executed by defendant Nos.1 and 2 in favour of defendant No.3, is not binding on the undivided share of the plaintiff. Petitioner is defendant No.4 in the said suit. On 21/09/2018, 'no written statement' order was passed against the petitioner. Petitioner, by filing application Exhibit-55 on 05/04/2022, prayed for setting aside the 'no written statement' order and filed written statement along with the

application. Trial Court has rejected the said application. Hence, the present petition.

3. Heard learned advocate for petitioner and learned advocate for respondent No.1. Perused the writ petition memo, annexures thereto and the impugned order.

4. Taking into consideration the fact that rights of the petitioner/defendant No.4 are involved in the suit property and as the petitioner is illiterate old lady, request of the petitioner made in the application Exhibit-55 deserves to be allowed, so as to give her fair and reasonable opportunity to contest the suit on merits.

5. In the result, writ petition is allowed. Impugned order dated 22/09/2022, passed below Exhibit-55 in Regular Civil Suit No.57/2018, is quashed and set aside. Application Exhibit-55 is allowed, subject to the petitioner paying cost of Rs.10,000/- to respondent No.1/ plaintiff in the trial Court.

6. Since the suit is of the year 2018, hearing of the suit is expedited and the trial Court shall decide the suit, expeditiously and in any case, within a period of one year from today. Parties to cooperate.

(NITIN B. SURYAWANSHI, J.)