

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

59 WRIT PETITION NO.14038 OF 2023

PRABHAKAR MANIKRAO TAPSALE
VERSUS
BASWARAJ MANIKRAO TAPSALE AND OTHERS

...
Advocate for Petitioner : Mr. Tungar Nikhilesh K.
...

CORAM : SHAILESH P. BRAHME, J.

DATE : 06th NOVEMBER, 2023

PER COURT :

Heard learned counsel for the petitioner.

2. The grievance in this petition is that the learned Trial Judge accepted the written statement of the respondent nos. 7 and 8 presented belatedly on 18th April, 2023. Learned counsel submits that those respondents were served on 06th September, 2023, thereafter, they appeared on 20th October, 2023. The written statement was filed on 18th April, 2023, without seeking any permission. Learned Trial Judge only endorsed an order of "R & R". Learned counsel submits that this is impermissible and amounts to procedural regularity. There was delay in filing written statement as contemplated by Civil Procedure Code.

3. Learned counsel for the petitioner is right in submitting that the respondent nos. 7 and 8 have failed to follow the statutory procedure. Without there being any application for explaining the delay

and / or seeking permission to file written statement, directly on 18th April, 2023, written statement was filed and accepted. There appears to be about three months delay. Learned Trial Judge should have adhered to the procedure.

4. As the written statement has been filed, it would be in the fitness of the things to draw the attention of the Presiding Officer and to take the remedial steps during further course of hearing in the Trial Court. Belated written statements are normally accepted or directed to be accepted by imposing reasonable costs.

5. The petitioner is at liberty to draw attention of the Trial Judge to remedy the defect in the above terms. Learned Judge is expected to take cognizance of the grievance. In view of this, the Writ Petition is disposed of.

[SHAILESH P. BRAHME, J.]

spc/