

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

WRIT PETITION NO. 14975 OF 2023

KAVITA NARAYAN SOLUNKE THROUGH GPA NARAYAN RANGNATHRAO
SOLUNKE
VERSUS
AURANGABAD MUNICIPAL CORPORATION AND OTHERS

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Advocate for Petitioner : Mrs. Solunke Savita N.

AGP for Respondents/State : Mr. V. M. Chate

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CORAM : SHAILESH P BRAHME, J.

DATE : 7th DECEMBER 2023.

Per Court :

. Heard the learned Counsel for the petitioner.

1. Being aggrieved by order dated 22.08.2017 passed below Exhibit-103 and order dated 01.11.2023 below Exhibit-168, the petitioner has approached this Court. The petitioner is the original plaintiff who is prosecuting RCS No.108/2015 for the reliefs of declaration and injunction.

2. The respondent no.1 is the Commissioner of Municipal Corporation. The respondent nos. 2 to 10 are the officers/ public servants rendering services with the establishment of Municipal Corporation. In pursuance of the summons, they filed written statement at Exhibit-53. Thereafter there was an amendment to plaint. They filed amended written statement at Exhibit no.103. According to the

petitioner, the written statement filed by the respondents was not in accordance with Order 6 Rule 14 and 15 of the Code of Civil Procedure. An order of read and recorded was passed below Exhibit-103.

3. The petitioner specifically raised an objection for the written statement by submitting an application at Exhibit-168 and prayed to outrightly discard the written statement and to treat as if there is no written statement. The respondents filed Say to the application. The application is rejected by order dated 01.11.2023.

4. The learned Counsel for the petitioner submits that the written statement which is at Exhibit No.103 has not been signed by the defendants and there is no verification. It is against the provision of Order 6 Rule 14, 15 of CPC. Such a written statement is no written statement in the eye of law. Learned Counsel submits that this aspect of matter has not been properly appreciated. She submits that the impugned order is an abuse of process of law. The same is causing prejudice to the petitioner.

5. The written statement of the respondents appears to be composite which is at Exhibit-103. Learned Counsel for the petitioner is right in submitting that the written statement has neither been signed, nor verified by respondents filing written statement. However I am of the view that it is a curable effect. The learned Judge has also directed the defendants to file written statement in consonance with provision of law.

6. Learned Counsel for the petitioner has drawn my attention to the provision of Order 8 Rule 1 to buttress the submission that such written statement should not have been accepted. The course adopted by learned Judge in the impugned order is permissible in law. The submissions of learned Counsel are hyper technical in nature. If the defects are curable then all the steps need to be taken so as to facilitate adjudication on the merits of the matter.

7. I do not find any perversity or illegality in the impugned order. There is no merit in the writ petition. It is dismissed.

[SHAILESH P BRAHME, J.]

Najeeb.