

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6923 OF 2023

Shamimbano Abdul Hamid Teli
through Abdul Hamid Abdul Majid
Teli

..... Petitioner

Vs.

Jalaloddin Hajiramjan Teli & Ors.

..... Respondents

Mr. Valmika Narvekar i/b Mr. M. S. Mulla for the Petitioner.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 22nd JUNE 2023.

P. C.

1. Heard.

2. The challenge in this petition is to the order dated 22/2/2023 passed below Exhibit 109 in Special Case No.266/2009 dismissing the application for setting aside "no written statement" order and for taking written statement on record.

3. Perused the impugned order. The suit in question has been instituted in the year 2009 and ex-parte order has been passed in 2016. In the year'2023, the petitioner moved an application for

setting aside the "no written statement" order and to take written statement on record. The only explanation tendered in the application is that the petitioner is from Rajasthan and was unable to contact his advocate. The submissions made in the application cannot be said to constitute sufficient cause for condoning delay of 6 years in preferring the application. It will be worthwhile to consider that the proceedings are at an advanced stage in as much as evidence has commenced.

4. In my opinion, it will not be in the interest of justice to set the clock back and permit the petitioner, who was sleeping over his right, to tender written statement on record by setting aside the "no written statement" order. Such course would result in extreme hardship to the plaintiff, who is prosecuting the suit from the year 2009.

5. In view of the above, there is no reason to interfere in the impugned order. The petition stands dismissed.

SHARMILA U. DESHMUKH, J.