

VRJ

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

WRIT PETITION NO.12010 OF 2023

Ram Sona Nemade & Ors.

... Petitioners

V/s.

Aparna Satyajit Nemade

... Respondent

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RAMESH
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Mr. Dormaan J. Dalal for the petitioners.

Mr. Sharad S. Ostwal for the respondent.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 4, 2023

P.C.:

1. Challenge in this petition is to the orders dated 5th April 2023 and 18th August 2023 passed by the Civil Judge, Senior Division, Pune rejecting application to file written statement and order of no written statement.
2. The respondent is plaintiff who filed suit for partition and separate possession on 8th March 2017.
3. According to the petitioners, they appeared through advocate on 13th January 2023. According to the petitioners, the suit summons were served on the petitioners on 13th January 2022. According to the petitioners, the documents necessary for preparation of written statement were not available and, therefore, there was delay of 57 days in filing the written statement.

According to the respondent, there is delay of 145 days.

4. The reason mentioned in the application for seeking permission to condone the delay and to file written statement is compromise talks between the plaintiff and defendant in a suit for partition. There is no serious dispute about the said reason. Therefore, in my opinion, the petitioners have made out a case for grant of permission to file written statement. Hence, following order:

a) Impugned order dated 18th August 2023 passed by the Civil Judge, Senior Division, Pune below Exhibit-69 is quashed and set aside.

b) The application below Exhibit-69 in Special Civil Suit No.1617 of 2022 is allowed subject to payment of costs of Rs.10,000/- to the plaintiff.

c) The costs shall be paid within four weeks from today.

5. The writ petition stands disposed of in above terms.

6. Needless to say that the petitioners shall have right to file say to temporary injunction application.

(AMIT BORKAR, J.)