

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.878/2023

National Seeds Corporation Limited, Akola Tehsil and District Akola and others

...Versus...

Mrs. Sangeeta Ajay Bagrecha and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri S.N. Bhattad, Advocate for petitioners

Mrs. Mahrukh Z. Haq, Advocate h/f Shri A.R. Deshpande, Advocate for respondent no.1

CORAM : AVINASH G. GHAROTE, J.

DATE : 16/02/2023

1. Shri Bhattad, learned counsel for the petitioners, seeks leave to delete the name of respondent no.2 from the array of the respondents.

2. The request is accepted. The name of respondent no.2 be deleted at the risk and consequences of the petitioner. Amendment be carried out forthwith.

3. Heard Shri Bhattad, learned counsel for the petitioners and Mrs. Haq, learned counsel for the respondent no.1.

4. The petition challenges the order dated 18/01/2023, whereby an application filed to set aside the no written statement order dated 03/10/2019 and for grant of permission to file the written statement has been rejected. It is contended that since talks of compromise were going on, the

written statement could not be filed. Covid-19 is also taken as one of the grounds for not filing the written statement.

5. The petition is opposed by Mrs. Haq, learned counsel for the respondent no.1. It is contended that though the talks of compromise were going on, the same had failed because of the stand of the petitioners and the delay, is intentional and therefore, has caused prejudice to the respondent no.1/plaintiff on account of loss of time.

6. It is trite that the matters are required to be decided on merits rather than in default. Since it is admitted that the talks of compromise were going on, that can be considered to be a reasonable cause for non-filing the written statement. The claim for prejudice on account of delay in the given circumstances, can always be compensated by costs, considering which, in order to give an opportunity to the petitioners to contest the suit on merits, the impugned order is hereby quashed and set aside and the petitioners are permitted to file their written statement, however, subject to payment of costs of Rs.25,000/- to be paid to the respondent no.1, within a period of one week from today.

7. The writ petition is allowed in the aforesaid terms.