

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

WRIT PETITION NO. 122 OF 2023

Ajay Agrawal and anr__ Vs. __Anjana Pankaj Gupta and ors

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

Court's or Judge's orders

Mr. A.C.Dharmadhikari, Advocate, for petitioners.

CORAM : AVINASH G. GHAROTE, J.

DATE : 09/01/2023

Heard Mr. Dharmadhikari, learned counsel
for the petitioners.

2] Learned counsel for the petitioner submits that the impugned order under Exh.46 dated 2.7.2022 (pg.181) is based upon an incorrect premise inasmuch as the written statement to counter claim ought to have been filed by the plaintiff in SCS No. 189/2018 within 30 days of the filing of the counter claim or otherwise in a reasonable time or the time granted by the Court and since it has not been done, the Court was incorrect in rejecting the application filed by the present petitioner for rejection of the written statement to the counter claim.

3] The counter claim was filed on 13.6.2018. Though time was granted from time to time, the written statement to the counter claim came to be filed only on 28.1.2019, that too without any application for extension. The time limit of 30 days for filing WS has

already been held to be directory, as it is the necessity of law for matters to be decided on merits and not in default. The delay in filing the WS to the counter claim from 13.6.2018 to 28.1.2019 cannot be said to be of such a magnitude so as to deprive the plaintiff of his defence to the counter claim. That being the position, I do not see any reason to interfere in the impugned order. The petition is dismissed. No costs.

JUDGE

Rvjalit