



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Civil Revision Application No. 129 of 2023

[Rishiraj Radheysham Somani ..vs.. Punjabrao Narayan Parghane 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. V. S. Lokhande, Advocate for the applicant

CORAM : ANIL L. PANSARE J.

DATED : 13-12-2023

The challenge is to order dated 21-9-2023 passed below Exhibit 25 in Special Civil Suit bearing No. 145/2022 by the Civil Judge Senior Division, Chandrapur.

2. Heard learned counsel for the applicant.
3. Perused the order. It appears that the non-applicant no. 1 – original defendant no. 1 has vide Exhibit 21 filed an application seeking permission to file on record written statement. The said application came to be rejected vide order dated 13-7-2023 on the ground that the application was neither signed by the Advocate nor the applicant/defendant no. 1.
4. Subsequent thereto, the non-applicant no. 1/defendant no. 1 filed another application, Exhibit 25 seeking permission to file written statement. The trial Court noted that summons was served on 18-10-2022. The first application was filed on or about 13-7-2023 but was rejected on technical ground. The subsequent application was filed on 27-7-2023. The trial Court noted that the first application was rejected on technical

ground and, therefore, subsequent application could be entertained. The trial Court then noted that the trial/hearing has not yet commenced. Considering these aspects and the delay in filing application, the trial Court, while allowing the non-applicant no. 1 to file written statement, has imposed costs of Rs. 1,000/- to be paid to the applicant – original plaintiff.

5. Learned counsel for the applicant submits that once the application having been rejected, the trial Court has no jurisdiction to entertain subsequent application.

6. I do not find merit in the submission in as much as the first application was rejected on technical ground. It is nobody's case that the first application was rejected on merit. The inadvertent mistake committed by the counsel in not signing the application was made good in subsequent application which was filed immediately after rejection of first application. The order clearly indicates that trial/hearing in the suit has not commenced. The Civil Procedure Code being procedural law, this Court has taken a consistent view that the delay in filing written statement should be liberally considered. In these circumstances, I do not find any illegality in the approach of the trial Court which has imposed costs while allowing the application. There is no merit in the application. The application is rejected.

(Anil L. Pansare, J.)