



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10798 OF 2021

Sakhubai Hiralal Mishra
VERSUS
Bhau Babu Waghmare And Others

Mr. Shaikh Shoyab, Advocate for petitioner
Mr. A. T. Jadhavar, Advocate for respondent Nos.1, 3 to5

CORAM : R. M. JOSHI, J.

DATE : 29th NOVEMBER, 2024

PER COURT :-

1. This petition takes exception to order dated 06.07.2021 passed below Exh. 143 in RCS No. 476 of 2009 whereby application filed by plaintiff to set aside no cross order passed on 09.03.2020 is rejected.
2. Learned counsel for the petitioner/plaintiff submits that during Covid 19, there were restrictions on the movement of people from 20th March, 2020 and the said restrictions continued for a substantial period. Though, later on they were relaxed to some extend, however, Court working did not resume immediately. It is his submission that in such circumstances, the trial Court ought not to have rejected application filed for setting aside no cross order.
3. Learned counsel for the respondent/defendant opposes the

petition.

4. It is unfortunate that the learned trial Court has failed to taken into consideration the unprecedented situation faced by entire world at the relevant time. It cannot be said that learned Judge was not aware of the fact that owing to the Covid 19 pandemic situation even Courts were not functioning fully for a quite long time. In such circumstances, there was no reason or justification for rejection of application that too by imposing cost of Rs. 500/-.

5. The order impugned is wholly unsustainable and accordingly, is set aside. Application Exh. 43 stands allowed. Petition stands allowed.

(R. M. JOSHI, J.)

bsj