



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

**934 WRIT PETITION NO. 15592 OF 2023**

GIRDHARILAL HUKUMCHAND GUPTA

VERSUS

SHIVPRASAD RAMESHWAR MOR

...

Advocate for the Petitioner : Mr. Sikchi Aditya N.

Advocate for Respondent : Mr. M. K. Deshpande

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**CORAM : R. M. JOSHI, J.**

**Dated : June 12, 2024**

**PER COURT :-**

1. This petition takes exception to order dated 18/08/2023 passed below Exhibit 10 and 11 for recalling order of no say.
2. Learned Counsel for petitioner states that the delay is only of 30 days in filing written statement and along with the application, the written statement was also tendered. It is his contention that in such circumstances, it would be in the interest of justice that the impugned orders are set aside by directing the Trial Court to take written statement on record.
3. Learned Counsel for respondent though has principally not disputed the fact that written statement can be allowed to be placed on record before the Trial Court, however, he drew attention of the Court towards the conduct of the petitioner of not complying orders passed by the Trial Court.
4. This Court cannot get influenced itself by the allegations made by the respondent against the petitioner for non compliance of orders, however, it is a matter of fact that the orders passed by the Trial Court directing the petitioner to pay cost of Rs.2000/-, has not been complied till date.

5. Petitioner has filed application along with the written statement and having regard to the fact that there is no inordinate delay caused in filing the written statement and no prejudiced is likely to cause to the respondent herein, his request to set aside impugned orders and permit the defendant to file written statement on record, deserves to be accepted.

6. Hence, impugned orders dated 18/08/2023 and 08/11/2023 passed below Exhibit 10 and 11 respectively, in Regular Civil Suit No.607/2022 stand set aside subject to cost of Rs.10,000/- (in words rupees ten thousand) payable by the petitioner to the respondent. The cost be paid within a period of week.

7. Learned Trial Court to ensure that cost is received by the plaintiff before taking written statement on record. Petition is disposed with the above observations.

( R. M. JOSHI, J. )

*vj gawade/-.*