



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

WRIT PETITION NO. 1277 OF 2019

(M/S. VERIETY POLYESTERS LTD...VS.. WESTERN COALFIELDS LTD. & OTH.)

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

Court's or Judge's orders

Shri D.C.Daga, Advocate for Petitioner.
Shri O.A.Ghare, Advocate for Respondent Nos. 1 to 3.

CORAM : ANIL S. KILOR, J.
DATED : FEBRUARY 14, 2024.

1. Heard.
2. The order dated 11/04/2018 passed by the District Judge-1, Nagpur in Commercial Civil Suit No. 10 of 2018, allowing the defendants to file written statement by setting aside 'No W.S.' order, is under challenge in this writ petition.
3. Admittedly, such permission was granted to the defendants subject to payment of costs of Rupees Two Thousand Five Hundred, within fifteen days. Further, undisputedly, the said amount was not deposited by the defendants/respondents within the stipulated period. Thus, in view of the said fact the challenge raised in this petition has lost its efficacy as there is no order allowing the defendants to file written statement on record.
4. The learned counsel for the respondents/defendants submits that on 10/09/2018 an application

was moved by the respondents to condone the delay and permit to deposit the costs.

5. Considering the period lapse in between 15 days from the date of the order and the date on which the application for condonation of delay was moved, it is expected that the learned trial Court would consider the application in accordance with law keeping in mind that the suit is the 'Commercial Suit' and the permission was granted subject to deposit of Rupees Two Thousand Five Hundred within fifteen days and the said condition has not been complied with.

6. However, the fact remains that there is no order in existence permitting the respondents to file written statement because of non-compliance of the condition for such permission.

7. In that view of the matter, the writ petition is **disposed of** with liberty to the petitioner to move afresh, if such occasion arises.

In the circumstances, there shall be no order as to costs.

JUDGE