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25-WP-1836-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

25 WRIT PETITION NO. 1836 OF 2025

Nasirkhan Gulabkhan Bagwan

VERSUS

Dr Zakir Hussain Education Society Through Its Secretary

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Mr. Gajendra Devichand Jain, Advocate for the Petitioner.

Ms. Sabahat T. Kazi, Advocate for Respondent.

CORAM : KISHORE C. SANT, J.

DATE : 1st APRIL 2025

PC :-

1. Heard the parties for some time.
2. This petition is directed against the order dated 5th March 2024 passed by the learned Ad-hoc District Judge-1, Shahada District Nandurbar rejecting the application of the present petitioner-appellant filed under Section 151 of the C.P.C. and Order 7 Rule 11 of the C.P.C. with a prayer not to accept the cross-objection filed by the respondent-plaintiff whose suit was decreed. It is the case that the respondent was served on 11th February 2022 with the notice of appeal. The respondent appeared on 18th February 2022 through an Advocate. However, instead

of filing cross-objection within 30 days, cross objections were filed on 8th April 2022. The petitioner, therefore, filed an application in view of order 41 Rule 22 of C.P.C. stating that cross objection ought to have been filed within a period of one month from the date of service of notice of the date fixed for hearing the appeal.

3. The learned Advocate for the petitioner vehemently argued that considering the Order 41 Rule 22 of C.P.C., it was necessary to file cross-objection within one month from the date of service. Admittedly, the respondent was served on 11th February 2022 and had appeared on 18th February 2022 and still did not file cross objection within one month. He submits that the Court failed to appreciate this material aspect. Since the cross objection was filed at belated stage, it could not have been accepted.

4. The learned Advocate for the respondent vehemently opposed the writ petition. She submits that the court has passed elaborate order and has considered various judgment passed by the Honble Apex Court and of this Court. She submits that while accepting cross objection, it is open for the court to condone the delay. She points out that though the cross

objections was filed on 8th April 2022 still objection was raised on 5th January 2024. Even this writ petition, though, is filed in the month of March 2024, is circulated only now.

5. Be that as it may, this Court finds that the learned appellate court has rightly considered the provisions and the judgments cited before the Court. This Court does not find any illegality or impropriety in the order passed by the learned Appellate Court. This Court finds that there is no merit in the writ petition. Writ Petition stands dismissed. No order as to costs.

6. As the appeal is pending since 2022, the appellate Court is expected to dispose of the same as early as possible and preferably within a period of six months from today.

[KISHORE C. SANT, J.]