



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

14 WRIT PETITION NO. 8841 OF 2025

Bhimsing Kisansing Pardeshi

VERSUS

Vijaysing Babansing Chandel Pardeshi And Others

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Advocate for Petitioner : Mr. A.G. Ambetkar

CORAM : S. G. CHAPALGAONKAR, J.

Dated : July 22, 2025

PER COURT :-

1. The petitioner is a defendant no.9 in R.C.S. No.525 of 2012 pending before the learned Civil Judge J.D. Pathardi, District Ahmednagar. Respondent no.1/plaintiff filed a suit seeking decree of partition, separate possession, declaration and injunction. The petitioner was served with suit summons on 24.1.2013. Thereafter sought adjournments for filing the written statement. Learned trial Court granted such adjournments vide order dated 4.3.2013 and 16.3.2013 and lastly passed 'No WS' order dated 16.3.2013.

2. Suit proceeded. Learned Trial Court framed issues, but evidence is not yet started. It appears that from the date of passing 'No WS' order, defendant took no steps either for setting aside 'No WS' order or bring on record his defence.

When the matter reached to stage of evidence, application below Exhibit-90 is filed for recalling of 'No WS' order and seeking permission to file Written Statement.

3. Perusal of reasons given in application suggests that petitioner was out of station for earning his livelihood hence he could not remain present in the Court or instruct his advocate. The aforesaid reason cannot be accepted to ignore the delay of about 12 years in filing the application for setting aside "No WS" order, particularly when suit is reached to stage of evidence. Petitioner cannot be permitted to file written statement at this advanced stage ignoring inordinate delay in filing the application, particularly, in absence of adequate reasons for such delay.

4. Supreme Court of India in case of **Kailash Vs. Nanhku and others reported in (2005) 4 SCC 480** observed that 'extension of time to file Written Statement can be granted by Court within its discretion, however, while exercising the discretion, rigors or time span mentioned in order VIII Rule 1 of the Civil Procedure Code cannot be ignored.'

5. In that view of the matter, no case is made out to cause interference in impugned order under Article 227 of the Constitution of India. In the result, writ petition stands **rejected.**

(S. G. CHAPALGAONKAR)
Judge

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