



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

WRIT PETITION NO. 3327 OF 2024

Mir Farkunda Ali Osmani Mir Gazanfar Ali

VERSUS

Syed Mushtakh Ali Syed Munwar Ali Died Thr Lrs Syed Ashfakh Ali
Syed Mushtak Ali And Others

...

Advocate for the Petitioner : Mr. Gade Akash D.

Advocate for Respondent Nos.1/1, 1/4, 1/6, 2 to 4 & 7 : Mr. P.B. Vaidya
(through V.C.)

WITH

CIVIL APPLICATION NO. 8855 OF 2025

IN WP/3327/2024

...

CORAM : ROHIT W. JOSHI, J.

DATE : 22nd AUGUST, 2025

P.C.:

1. Respondents in the matter are original defendants. Learned advocate for the petitioner on a query made by this Court makes a statement that all the defendants are represented by the same advocate. Learned advocate for respondents states that except defendant no.6, all the defendants are represented by the same advocate.

2. The controversy in the matter is that some of the defendants have filed written statement and some of the defendants, who did not file a written statement filed a pursis adopting the said written statement. When objection pertaining to cross-examination at their behest was raised, they filed a written statement in order to avoid any

technical objections. It is not in dispute that the written statement which is already on record and the written statement filed by the other defendants, who did not file written statement earlier are identically worded. Since the same advocate is representing all the defendants, it is obvious that said advocate can put all the questions in cross-examination including cross-examination with respect to defences raised in written statement, which is already filed by some of the defendants. As regards the defendants who did not file written statement, such defendants will also have right to conduct cross-examination, however, such defendants cannot put their specific defence to the witnesses during the course of cross-examination.

3. However, in present case, since all the defendants are represented by one and the same advocate, who is conducting cross-examination for and on behalf of all, the advocate conducting cross-examination cannot be prevented from putting questions with respect to specific defences raised in the written statement as well, because some of the defendants whom he is representing have filed the written statement. It is also undisputed that other defendants who have now filed the written statement have not raised any additional ground in defence. It is admitted that the written statement is *verbatim* the same except of course for the date and defendant numbers which obviously will change.

4. In view of the aforesaid, in the considered opinion of this Court, the objection raised by the petitioner/plaintiff to the order permitting the defendants to file written statement is technical in nature and does not affect the substantive rights of the plaintiff in any manner whatsoever. It is well settled that the writ jurisdiction of this Court is to be exercised in order to subserve the cause of justice and technicalities of law cannot be pressed into service. An interlocutory order even if it is not legally sound may not be interfered by this Court in exercise of writ jurisdiction under Article 226 as also supervisory jurisdiction under Article 227 of Constitution of India if it does not adversely affect any rights of the parties.

5. In that view of the matter, writ petition is dismissed with no order as to costs.

6. Civil Application No.8855 of 2025 stands disposed of.

[ROHIT W. JOSHI J.]