



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

53 WRIT PETITION NO. 10648 OF 2023

Rameshchandra Manakchandra Jain

VERSUS

Shivaji Damu Patil

...

Mr. Ujwal Subhash Patil, Advocate for the Petitioner.

Mr.M. M. Shah, Advocate for Respondent.

CORAM : KISHORE C. SANT, J.

DATE : 21st MARCH 2025

PC :-

1. Heard the learned Advocates for the respective parties.
2. This petition is filed by the original defendant, whose application is allowed into sign the written statement, which was filed in time before the Court, came to be rejected. The only reason assigned by the learned trial Judge is that, there is no provision to sign the pleading at belated stage. It is the case of the petitioner that though the written statement was filed, inadvertently the same remained to be signed. When the Advocate of the petitioner noticed that the written statement is without signature, he filed an application. In the application it is clearly stated

that, even the court has signed the written statement filed on 6th November 2014, there is also endorsement of the learned Advocate for the plaintiff-respondent of receipt of the copy of the written statement. Issues are also framed. The evidence is also recorded.

3. The said application was resisted by the learned Advocate for Respondent. He submits that there is no provision to put signature on the pleadings after such a delay. On hearing the parties, the learned trial Court passed an order dated 26th April 2022 and therefore, the petitioner is before this Court.

4. Learned Advocate for the petitioner vehemently argued that by allowing the petitioner to sign the written statement, only formal defect is cured. When the written statements is accepted by the Court, issues are also framed. The evidence is lead. There is no propriety to refuse the petitioner to sign the written statement. It will not cause any prejudice to any of the parties. The learned trial Judge certainly had a power under Section 151 of Cr.P.C. to allow the petitioner to sign the written statement. He thus prays for allowing the writ petition.

5. Learned Advocate for the Respondent vehemently opposed the petition. He submits that there is no case made out to allow the petition. The petitioner failed to point out any provision to allow him to sign the written statement after five years. He thus prays for rejection of the writ petition.

6. This Court has gone through the order and heard the argument. This court finds that the learned trial judge has taken two technical approach and refused the petitioner to sign the written statement. For all the practical purposes, the written statement is treated as written statement in the trial Court. No purpose would be served by not allowing to sign the written statement. The defect is certainly curable one. The trial Court ought to have allowed the petitioner to sign the written statement.

7. Considering the above, following order.

ORDER

(i) Writ petition is allowed in terms of prayer clause (B) and (C).

(ii) As the suit is pending since 2014, the trial Court to decide the same within one year from today.

(iii) With this writ petition stands disposed off.

[KISHORE C. SANT, J.]