



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

957 WRIT PETITION NO. 12043 OF 2024

THE STATE OF MAHARASHTRA THR ITS DISTRICT COLLECTOR
AHMEDNAGAR AND OTHERS

VERSUS

DADA AHMED PATHAN

Mr. V. M. Chate, AGP for the Petitioner
Mr. S. S. Dixit, Advocate for Respondent No.1
Advocate M. S. Jadhav for Respondent No.2.

CORAM : R. M. JOSHI, J.

DATE : 12th SEPTEMBER, 2025

P.C. :-

1. This Petition takes exception to the order dated 26/06/2024 passed by Trial Court in R.C.S. No. 1087/2016 vide Exhibit 38, whereby the Application filed by Defendant No.3 for setting aside ex-parte/no written statement order. Since the said Application is rejected by the Trial Court, this Petition.

2. Petitioners are Government instrumentalities. The R.C.S. No. 1087/2016 pertains to the public property. The said suit has been filed by the contesting Respondent for regularization of encroachment and in alternative to declare him as a owner by adverse possession. Having regard to the nature of suit and more particularly in view of the fact that the public property involved in the suit, this is a fit case to exercise discretion by causing interference to the impugned order.

3. Apart from this it is pertinent to note that though the suit is filed in the year 2016, in the year 2019 it was dismissed for want of prosecution and therefore, was restored on 25/04/2022.

4. Having regard to these facts, the learned Trial Court ought to have been considerate to accept the request of the Defendants/Petitioners herein. Hence, Petition stands allowed. Impugned order is set aside. Application (Exhibit 38) is allowed. The order of proceeding ex-parte against Defendant No.3 is set aside. Written statement be filed within a period of four weeks from today. If written statement is not filed within this period, it is open for the Trial Court to pass appropriate order. Since the suit is year of 2016, Trial Court to make endeavour to decide the same as expeditiously as possible.

(R. M. JOSHI, J.)

ssp