



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

WRIT PETITION NO. 1245 OF 2025

Nirmala Satish Kothari

.. Petitioner

Versus

Mangal Anandrao Avhad

.. Respondent

Mr. Adinath B. Jagtap, Advocate for the Petitioner.

Mr. Ajinkya Kale, Advocate i/by Talekar & Associates for the Respondent.

CORAM : KISHORE C. SANT, J.

DATED : 24th APRIL, 2025.

P C. :-

. Heard learned advocate for the petitioner and learned advocate for the respondent.

2. By way of impugned order the learned Trial Judge has rejected the application that was filed by the petitioner – defendant for accepting her written statement on record. The learned advocate for the petitioner submits that, the valuable right of the defendant is taken away. He prays that, the application be allowed by allowing the writ petition and impugned order be quashed and set aside.

3. The learned advocate for the respondent – plaintiff vehemently opposes the petition. He submits that, the petitioner has failed to file

written statement within 90 days as per the mandate of Order VIII of the Code of Civil Procedure. He supports the order.

4. This Court finds that, though there is delay on the part of the petitioner in filing the written statement, the same is tried to be justified in any case. It is already held by the Hon'ble Supreme Court in the case of **Salem Advocate Bar Association Vs. Union Of India** reported in **MANU/SC/0912/2002** that the amendment is directory and not mandatory.

5. Considering that, the defendants valuable right would be taken away if no written statement is permitted. In view of the same, this Court is inclined to allow the writ petition.

6. The writ petition stands allowed in terms of prayer clause (B). However, in the facts of the case, this order is subject to petitioner paying cost of Rs. 5,000/- (Rs. Five Thousand only) to be paid to the respondent – original plaintiff in the learned Trial Court within six (06) weeks from today.

7. With this, the writ petition stands disposed of.

(KISHORE C. SANT, J.)

PS.B.