

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.16744 OF 2024**

Prasad Prabhakar DevsthaliPetitioner

Vs.

Gauri Prasad Devsthali @
Erstwhile Gauri Anant KulkarniRespondent

Mr. Omkar Nagwekar, i/b. Mr. Uday B. Nighot, for the Petitioner.
Mr. S. C. Mangle, for the Respondent.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 15th DECEMBER 2025

PC.:-

1. The present Writ Petition takes exception to order dated 16th October 2024 passed by learned Civil Judge, Senior Division, Ratnagiri below Exhibit 14 in Marriage Petition No.85 of 2023, thereby rejecting application for setting aside No Written Statement order dated 5th October 2023.

2. The learned Advocate appearing for Petitioner would submit that Respondent had filed Marriage Petition No.85 of 2023 against Petitioner seeking decree of dissolution of marriage and also claimed custody of daughter. On 13th April 2023, summons of Court is served upon Petitioner. On 9th June 2023, Petitioner appeared and sought time to file written statement. On 5th October 2023, No Written

Statement order came to be passed against Petitioner. Meanwhile, parties were exploring possibility of settlement. On 10th July 2024, Petitioner has filed application below Exhibit 13 and requested trial Court to not to proceed with hearing. On 12th August 2024, application was filed below Exhibit 14 for setting aside No Written Statement order with request to take written statement on record. However, vide impugned order, said application has been rejected.

3. The learned counsel appearing for Respondent supports impugned order contending that there is no explanation for not filing written statement within 90 days from date of appearance.

4. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that dispute between parties is not only regarding claim for dissolution of marriage, but also custody of minor. The decision in such case needs to be made on merits, after giving sufficient opportunity to both parties to put up their stand. It is no doubt that there is delay in filing application for setting aside No Written Statement order or tendering written statement. The matter has not proceeded further and it is still at the stage of examination of plaintiff's witness.

5. In that view of matter, Writ Petition deserves to be allowed, however, Respondent needs to be compensated by appropriate costs.

Hence, following order:

ORDER

- i) The Writ Petition is partly allowed in terms of prayer clause (b), subject to condition that Petitioner deposits costs of Rs.5,000/- with trial Court within four weeks from today.
- ii) On deposit of costs, it be disbursed to Respondent/plaintiff.
- iii) In case of failure to deposit costs, impugned order dated 16th October 2024 passed below Exhibit 14 shall govern the proceeding.
- iv) If the parties consent, possibility of amicable settlement by way of mediation be explored before recording of evidence.
- v) The Writ Petition is accordingly disposed of.

(S. G. CHAPALGAONKAR, J.)

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RAJU
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