

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3072 OF 2025

Vishal Pramod Sonavane

...Petitioner

Versus

Ethel W. Dmello & Ors.

...Respondents

Mr. Aditi Rajput a/w. Mr. Amandeep Singh Sra, for the Petitioner.
Mr. Gireesh U. G. Menon, for the Respondent No.1.
Mr. J. P. Patil, AGP, for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.

DATED : 7th MARCH 2025

P. C.:

1. Heard Ms. Aditi Rajput, learned Counsel appearing for the Petitioner, Mr. Gireesh Menon, learned Counsel appearing for the Respondent No.1 and Mr. Patil, learned AGP, appearing for the Respondent-State.

2. By the present Writ Petition filed under Article 227 of the Constitution of India, the challenge is to the legality and validity of the order dated 18th February 2025 passed below Exhibits-38 and 39 in Regular Civil Suit No.381 of 2023 by the learned Joint Civil Judge Junior Division, Belapur, Navi Mumbai.

3. The said Application bearing Exhibit-38 was filed seeking setting aside order to proceed *ex-parte* passed below Exhibit-1 in Regular Civil Suit No.381 of 2023 on 13th December 2023 and Exhibit-39 was filed seeking setting aside no-cross order dated 5th November 2024. The said Applications were rejected by the impugned order.

4. After arguing the matter for some time, both the learned Counsel state that the impugned order dated 18th February 2025 be quashed and set aside by consent as well as the Petitioner, who is the original Defendant No.1, be granted leave to file written statement, subject to payment of Rs.20,000/- per month in the learned Trial Court as well as deposit of arrears at the rate of Rs.20,000/- per month from 1st April 2023.

5. Ms. Aditi Rajput, learned Counsel appearing for the Petitioner tenders affidavit of the Petitioner. In the said affidavit, it is stated that the Petitioner will pay compensation at the rate of Rs.20,000/- per month from April 2023. The arrears for the period from 1st April 2023 till 28th February 2025 are Rs.4,60,000/-. The Petitioner has agreed to pay Rs.2,30,000/- within a period of four

weeks from today and Rs.2,30,000/- within a period of four weeks thereafter.

6. It is the only submission of Ms. Aditi Rajput, learned Counsel appearing for the Petitioner that the said amount will be deposited before the learned Trial Court and the same will abide the final decision in the said Regular Civil Suit No.381 of 2023 pending before the learned Civil Judge Junior Division, Belapur, Navi Mumbai. It is her further submission that the amount is being deposited without prejudice to the rights and contentions of the parties.

7. Accordingly, by consent of the parties, the following order is passed:

ORDER

(a) The impugned order dated 18th February 2025 passed by the learned Joint Civil Judge Junior Division, Belapur, Navi Mumbai below Exhibits-38 and 39 in Regular Civil Suit No.381 of 2023 is quashed and set

aside by consent and the said Applications are allowed, subject to deposit of payment in the Trial Court as directed hereinafter.

- (b) The Petitioner who is Defendant No.1 is also at liberty to file written statement on or before 10th June 2025.
- (c) The above order is passed subject to the Petitioner depositing amount of Rs.20,000/- per month before the learned Trial Court on or before 10th day of each month. The said payment shall be deposited w.e.f. 1st April 2023. The Petitioner shall pay an amount of Rs.20,000/- for the month of April 2025 on or before 10th April 2025 and continue to deposit the same before the learned Trial Court on or before 10th day of each month.
- (d) The arrears for the period from 1st April 2023 till 31st March 2025 of Rs.4,80,000/- shall be deposited before the learned Trial Court in the following manner:

- (i) Rs.2,40,000/- shall be deposited on or before 7th April 2025.
- (ii) Rs.2,40,000/- shall be deposited on or before 7th May 2025.
- (e) It is further made clear that unless the Petitioner deposits the said amount of Rs.4,80,000/- before the learned Trial Court, the Written Statement which is permitted to be filed by the Petitioner i.e. the Defendant No.1 by this order shall not be taken on record by the learned Trial Court.
- (f) It is further made clear that if the Petitioner fails to deposit the said amount of Rs.4,80,000/- before the learned Trial Court on or before 7th May 2025, then in that event, this Writ Petition shall stand dismissed without further reference to the Court.
- (g) It is made clear that the above deposits are without prejudice to the rights and contentions of both the

parties and the same will abide the final decision of the said Regular Civil Suit No.381 of 2023.

8. Mr. Gireesh Menon, learned Counsel appearing for the Respondent No.1 states that the Respondent No.1 is a senior citizen aged 82 years. Accordingly, in the facts and circumstances of this case, the learned Trial Court is requested to dispose of the said Regular Civil Suit No.381 of 2023 expeditiously.

9. The Writ Petition is disposed of in above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]

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PATIL

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