

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9882 OF 2025

Niwas Ramchandra Patil

..Petitioner

Versus

Sneha Suhas Sawant & Ors

...Respondents

Mr. Shubham Mishra, i/b Ashok Mishra, for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATED : 20th SEPTEMBER 2025

ORAL ORDER:

1. Heard the learned Counsel for the Petitioner.
2. The challenge in this Petition is to an Order dated 3rd March 2025, whereby the Notice of Motion No 3792 of 2024 taken out by the Petitioner-Defendant No.1 to set aside the 'no W.S.' order and permit the Defendant No.1 to file the Written Statement in Commercial Suit came to be dismissed.
3. The Writ of Summons was served on the Petitioner-Defendant No.1 on 19th April 2023. The maximum period of 120 days expired on 19th August 2023. The Petitioner took out the Notice of Motion No. 3792 of 2024 with the contention that on 21st July 2023, the Court had passed an order that the Suit to proceed without Written Statement against the Defendants. However, on that day, the period of 120 days

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had not expired and, therefore, the said 'no W.S.' order dated 21st July 2023 be set aside and the Petitioner be permitted to file the Written Statement.

4. The learned Judge, Commercial Court, was of the view that no Written Statement was filed within the maximum period of 120 days, and, thus, the Notice of Motion was devoid of substance.

5. The learned Counsel for the Petitioner submitted that on 21st July 2023, when the 'no W.S.' order was passed the period of 120 days had not expired and, therefore, the Petitioner-Defendant No.1 was justified in taking out the Notice of Motion to set aside the said order.

6. The submission does not merit any countenance. From the record it is evident that when the 'no W.S.' order was passed a period of 90 days had lapsed and, yet, no Written Statement was filed and, therefore, the Commercial Court had passed an order that the Suit would proceed without Written Statement qua Defendant No.1.

7. The Notice of Motion was taken out by the Defendant No.1 on 25th August 2023. By that date, the period of 120 days had expired. It is not the case that at any time before the expiry of 120 days, the Petitioner approached the Court with a case that the Written Statement was ready and the Defendant No.1 be permitted to file the Written Statement. In the aforesaid view of the matter, in view of the provisions contained in Order V Rule 1 and Order VIII Rule 1, as amended by the

Commercial Courts Act, 2015, the Court has no power to extend time to file the Written Statement beyond the period of 120 days. Thus, there is no infirmity in the impugned order.

8. The Petition stands dismissed.

[N. J. JAMADAR, J.]