

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.437/2024

Shyam s/o Shriram Thak and others

Vs.

Syed Ruknuddin s/o Syed Rafioddin

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri V.B. Bhise, Advocate for petitioners
Shri Syed Sufiyan, Advocate for respondent

CORAM : SMT. M.S. JAWALKAR, J.
DATED : 23/01/2025

Heard learned Counsel for both the parties.

2. The present petition is filed challenging the order dated 02.09.2023 passed by Civil Judge, Junior Division, Barshitakli, in Regular Civil Suit No.29/2019. There was order passed on 04.01.2020 by which suit was proceeded without written statement against the petitioners. The said order came to the notice of petitioners after Court started functioning after COVID-19 Pandemic was over.

3. The learned Civil Judge, Junior Division observed that there was around 4 months time granted to file written statement, however, no written statement was filed and after around 3 years, application for setting aside no written statement was filed.

4. Admittedly, there was unprecedented situation of COVID -19 Pandemic in between and Courts were not regularly functioning. It is the matter of knowledge that at the end of 2019 and in the beginning of 2020 itself, there

was fear and confusion in the minds of people due to COVID- 19 Pandemic. As such, the Court has required to consider this aspects. Even if, application is filed after three years, the situation in between needs to be considered. As the Courts were not functioning, no prejudice is going to cause to the plaintiff, if such application is allowed and written statement is taken on record. Even Hon'ble Apex Court extended limitation. However, considering the inconvenience caused to the plaintiff, the order of no written statement can be set aside by imposing costs.

5. As such, the order dated 04.01.2020, below Exhibit-1 and order dated 02.09.2023 below Exhibit-29 passed by learned Civil Judge, Junior Division are hereby quashed and set aside.

6. The written statement is already filed along with application for setting aside 'no written statement order'. The petitioner shall pay amount of Rs.10,000/- to the plaintiff as the costs within two weeks.

7. The learned Civil Judge, Junior Division is hereby directed to accept the written statement after payment of costs of Rs.10,000/- to the respondent as directed above.

8. The writ petition is disposed of accordingly.

JUDGE

R.S. Sahare