



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 1658 of 2025

[Shri Gaurav Javery ..vs.. Shri Chandraprakash Nikhar]

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

Court's or Judge's orders

Mr. M. V. Arya, Advocate for the petitioner
Ms. Kirti Satpute, Advocate for the respondent

CORAM : ANIL L. PANSARE J.

DATED : 01-07-2025

Learned counsel for the respondent has tendered across bar the affidavit for modification/corrections in the short written submissions made on behalf of the respondent. Same is taken on record.

2. The petitioner is aggrieved by order allowing respondent's request to place on record written statement by setting aside the so called order of "no written statement".

3. The respondent moved an application saying that his counsel did not file written statement despite instructions given to him, rather his counsel did not appear before the Court on many occasions. The trial Court has taken note of the delay of 22 months and also of the fact that there is no document to show that the respondent was in continuous touch with the earlier counsel. The trial Court, however, took a view that since further examination-in-chief of petitioner-plaintiff is yet to be recorded, the respondent should be given opportunity to defend the suit by filing written statement. Accordingly, trial Court allowed the application by imposing costs of Rs. 2500/-.

4. Having heard both sides, since the trial Court has used discretion to give opportunity to respondent to defend the case on merit, which I do not find to be an arbitrary approach, I

am not inclined to interfere with the impugned order in the writ jurisdiction. The only modification which I intend to make in the order is to enhance costs, considering the casual conduct of the respondent. The order impugned is accordingly modified by replacing costs of Rs. 2500/- by Rs. 5,000/-, which the respondent shall deposit before the trial Court within 10 working days from today. The costs so deposited shall be paid to the petitioner.

5. Writ petition is disposed of in above terms.

(Anil L. Pansare, J.)

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