



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

WRIT PETITION NO.763/2025

Sitaldas Tulsidas Arora .Vs. Avinash Someshwri Tayade and anr.

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

Court's or Judge's orders

Mr. N. A. Parwani, Advocate for petitioner.

CORAM : **ANIL L. PANSARE, J.**

DATE : **FEBRUARY 12, 2025**

Heard.

2. The petitioner – plaintiff is before this Court challenging order dated 22.11.2024 passed below Exh.-59 in Regular Civil Suit No.13/2014, permitting the respondents to file written statement.

3. Counsel for the petitioner submits that the Trial Court committed grave error of law by permitting the respondents to file written statement after 10 years. He has relied upon judgment of the Supreme Court in **Mohammed Yusuf Vs. Fajj Mohammad & Ors. (2009) 3 SCC 513**, wherein the Court held that though provisions under Order VII Rule 1 of the Civil Procedure, 1908 are directory, filing of written statement beyond 90 days should be allowed in exceptional and rare cases where defendants may face extreme hardship.

4. The manner in which the counsel put forth the case, he made the Court believe that the respondents were completely silent for 10 years and have suddenly decided to file written statement. The counsel submits that the Court has not assigned good cause to permit the respondents to file written statement. He further submits that respondents have not even filed application to condone the delay.

5. The order passed by the Trial Court indicates that the suit was dismissed on 02.05.2014 and was restored in September, 2017. The order further indicates that the application filed by respondent under Order VII Rule 11 of the CPC was also pending.

6. At this stage, the counsel submits that both the applications viz. application under Order VII Rule 11 and under Section 9-A of the CPC were decided in the year 2014.

6. I have gone through the applications filed by respondents, which indicates that the application filed under Order VII Rule 11 of the CPC was decided on 17.08.2019 and not in the year 2014. When inquired, the counsel for petitioner submits that he has inadvertently made statement that the application filed under Order VII Rule 11 was decided in the year 2014. He tendered apology and at the same time sought permission to withdraw the petition

7. Permission is granted.

8. The writ petition is dismissed as withdrawn. No order as to costs.

(Anil L. Pansare, J.)