



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

WRIT PETITION NO. 1164 OF 2024

1] Shri Gurvinder s/o Balbeer Singh Dhillon,

Aged about 39 years, Occupation :

Business/agriculturist, r/o Plot No. 910/

Baba Deep Singh Nagar, Near Kabir Nagar,

Near Gurudwara, Uppalwadi, Nagpur -

440 026 (Mah.)

2] Shri Rajvinder Singh S/O Balbeer Singh

Dhillon, aged about 34 years, Occupation:

Agriculturist, r/o 402, Royal Court, Canal

Road, Panchasheel Theatre, Ramdaspath,

Shankar Nagar, Nagpur-440010

....PETITIONER

....VERSUS....

M/s. Picasoo Associates (Earlier M/s.

Picasso Planners) a registered Partnership
firm bearing Registration No.

NG000003878, having it's registered Office

at Plot No. 47, NIT Colony, Vishwakarma

Nagar, Nagpur-440 027 though it's Partners

Shri Anil and Avinash s/o's Wamanrao

Admane.

...RESPONDENT

Ms. Disha C. Kamwani, Advocate h/f. Shri M. Anilkumar for
petitioner.

Shri A.K.Tripathi, Advocate for respondent.

CORAM : SMT. M.S. JAWALKAR, J.

DATE : 23/04/2025

ORAL JUDGMENT

Heard the learned counsel for the petitioner as well as learned counsel for the respondent.

2. The present petition is filed challenging the order dated 12/10/2023 passed below Exh. 37 in Spl. Civil Suit No. 828/2021 by 2nd Joint Civil Judge, Senior Division, Nagpur.

3. The application was filed for setting aside no written statement order passed against defendant nos. 2 and 3 and for permission to file written statement. It is contended by defendant nos. 2 and 3 that, they had engaged advocate to defend on their behalf and the advocate also filed 'Vakalatnama' and sought time to file written statement. It is further contended that, in spite of approaching the office of their earlier counsel and in spite of providing all relevant documents, their earlier counsel had not filed written statement on their behalf. It was informed to them by the learned counsel for defendant no. 1 in the 2nd week of December, 2022 that, they need to file written statement. After enquiry to their previous counsel, no satisfactory reply was given by their counsel. The present counsel appeared in the

matter on 23/12/2022 on behalf of defendant nos. 2 and 3. After inspection of record, it was revealed that the previous counsel did not file written statement and reply and thus, the learned Trial Court proceeded the matter without written statement on 19/07/2022 against the defendant nos. 2 and 3. Therefore, they immediately approached to their previous counsel and demanded for return of the documents, however, certain documents were not given. So in short, the entire blame is put by the defendants on their previous counsel.

4. The learned Trial Court rejected the application on the ground that, the defendant nos. 2 and 3 have not placed on record any document showing that any action has been taken against their previous counsel and blamed the counsel for delay in filing the written statement. Even the Trial Court observed in the order that, the defendants appeared on 10/01/2022 and the application filed on 20/01/2023 and delay is not satisfactory explained. However, in para 3 of the application, it is mentioned that the present counsel appeared for the first time on 23/12/2022 and he inspected the record.

They came to know that “no written statement order” is passed against them. Be that as it may, it is a fact that, both the defendants were not diligent in filing their written statement specifically when they were aware about the fact that, by which time, the written statement has to be filed. As such, though I am inclined to allow the application in the interest of justice so as to the rights of the defendants would not be defeated due to negligence on part of their counsel, however, defendant nos. 2 and 3 are also equally responsible. As such, the present petition is **allowed**, subject to costs of Rs. 25,000/- for the inconvenience caused to the plaintiff.

5. The amount of Rs. 25,000/- shall be paid to the plaintiff or to be deposited in the learned Trial Court for the plaintiff by 10/06/2025.

6. After deposit of costs, the learned Trial Court is directed to take on record the written statement on behalf of defendant nos. 2 and 3.

7. Accordingly, the petition stands **disposed of**.

(Smt. M.S.Jawalkar, J.)