



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

WRIT PETITION NO.4906 OF 2025

Yashwant Laxman Mankar and ors.

Vs.

State of Maharashtra, thr. Collector, Yavatmal

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. P.D. Meghe, Advocate for Petitioners.

Mr. B.M. Lonare, AGP for respondent Nos.1 to 3/State.

CORAM: SACHIN S. DESHMUKH, J.

DATED : 26.08.2025

1. The petitioners raise a challenge to the order dated 18.07.2025 rendered by the learned 8th Joint Civil Judge (Senior Division), Yavatmal in RCS No.164/2021 thereby allowing the application presented by the defendant Nos.4(a) to 4(c) for setting aside the order of 'No Written Statement' and eventually permitted to present written statement.

2. The petitioners have presented the regular suit for declaration, cancellation of sale deed, partition and perpetual injunction in relation to the immovable property.

3. In response to the suit summons, the defendants have caused appearance in the matter. Having caused appearance an application under Order VII Rule 11 of the Civil Procedural Code, 1908(for short, 'C.P.C.') was

presented seeking rejection of the plaint. The defendants were prosecuting the application which eventually came to be rejected on 25.06.2024. It is thereafter that the defendants have presented written statement. The trial Court, considering the fact that the defendants have failed to present their written statement within a reasonable time, has passed an order of proceeding the suit without written statement of these defendants.

4. Subsequently the defendants requested to set aside the order of 'No Written Statement' by accepting the written statement so presented by the defendants. The trial Court considering the fact that no prejudice would be caused to the plaintiff in the event, the order of no written statement is quashed thereby permitted the defendants to present written statement. Rather it would be in the interest of justice to allow these defendants to present written statement and participate in the proceedings to decide the issue in order to do complete justice. Considering the delay on the part of the defendants the trial Court also has adequately compensated the plaintiffs by imposing cost to be paid by the defendants and on deposit of such cost, the written statement was directed to be taken on record.

5. The order of setting aside the order of no written statement and allowing the written statement to be taken on record is subject matter of challenge in the present petition. It is the contention of learned counsel for the petitioners that the respondents have not complied with the mandate of the Civil Procedure Code to present its

written statement within a reasonable time frame although they were served in the proceedings in the year 2022. As such, the Trial Court has committed error while allowing application and permitting to present written statement. In the process, learned counsel for the petitioner has placed heavy reliance on the judgment of Hon'ble Apex Court in the case of *SCG Contracts (India) Private Limited Vs. K.S. Chamankar Infrastructure Private Limited and others* reported at *(2019) 12 SCC 210*.

6. Having heard the learned counsel for the petitioners it is a matter of record that the defendants although were served in the year 2022, have chosen not to file their written statement. Equally it is a matter of record, that the application under Order 7 Rule 11 of the C.P.C. was presented and prosecuted by the defendants which came to be rejected on 25.06.2024. Preceded by these aspects, considering the fact that no written statement was presented by these defendants resultantly trial Court passed an order to proceed with the suit without written statement of the defendants. It is thereafter the application is presented by the defendants to recall the order of no written statement permitting defendant to present written statement. The Trial Court has considered these peculiar aspects and further taking into account the delay on the part of the defendants has been adequately compensated by imposing the compensatory costs on the defendants to be paid to the plaintiff.

7. The reliance placed by the counsel for the petitioners on the judgment of SCG Contract (India)

Private Limited (supra) is concerned, it is in relation to the commercial disputes. As such, same is of no assistance to the petitioners. Resultantly, trial Court has exercised the discretion vested with it by allowing the application presented by the defendants thereby recalling the order of no written statement as the same was presented [after collecting necessary information and documents which can be regarded as sufficient cause for not presenting written statement within reasonable time which would subserve the ends of justice. The trial Court, considering the fact that the defendants and permitting the defendants to put forth written statement so as to contest the suit on its own merit. Resultantly, no error is noted in the order passed by the learned Civil Judge Senior Division, Yavatmal. As such, petition sans merit and accordingly same is dismissed. No order as to costs.

(SACHIN S. DESHMUKH, J.)