



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

945 WRIT PETITION NO.364 OF 2026

Vilas Gajanan Udawant

VERSUS

Babubhai Alias Tajjmul Hussain Died Thr. Lrs Smt Naginabi
Usmangani Aatar And Others

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Advocate for Petitioner : Mr. V. S. Bedre

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : January 14, 2026

PER COURT :-

1. Present writ petition takes exception to the order dated 9.12.2025 passed by Civil Judge Senior Division, Rahuri below Exhibit-196 in Special Civil Suit No.2 of 2025 (old Special Civil Suit No.106 of 2013), whereby application filed by petitioner for setting aside "No WS" order is rejected.

2. The petitioner is defendant no.52 in Special Civil Suit no.106 of 2013 (new no.2 of 2025). Petitioner was served with suit summons. In deference to service of summons, he appeared in the suit, however, failed to file written statement. Therefore, "No WS" order has been passed on 28.1.2014. Petitioner filed present application below Exhibit-196 on 28.10.2015 contending that he was under the impression that his Advocate had filed written statement. He was not

communicated by his advocate regarding 'no ws' order passed by the Court. Learned Trial Court, after considering submissions advanced by the parties, observed that aforesaid reasons cannot be countenanced. It is also observed that petitioner/defendant had filed an application below Exhibit-41 firstly on 2.1.2014 and sought time for filing written statement, however, despite grant of sufficient opportunity, he did not file written statement. Resultantly, 'no ws' order was passed. Suddenly, after eleven years, present application is moved, which cannot be entertained.

3. Mr. Bedre, learned advocate appearing for petitioner endeavours to impress upon this Court that once petitioner had engaged an Advocate, he was under the belief that Advocate would take necessary steps, no blame can be attributed against petitioner. However, such contentions cannot be countenanced. It is obligation of the party to take care of litigation and ensure necessary steps. Merely by putting blame on advocate, party cannot shrug its responsibility.

4. Although, Mr. Bedre, relies upon observations of the Supreme Court in case of **SCG Contracts (India) Private Limited Vs. K.S. Chamankar Infrastructure Private Limited and**

others, reported in (2019) 12 Supreme Court Cases 210. Facts of case in hand are clearly distinguishable. In that case written statement was not filed by the party, who was pursuing application under Order VII Rule 11 of the CPC for rejection of plaint, and in that process, 'no WS' order was passed. It is not a case of inordinate delay of 11 years as in the present case. In that case suit was filed in the year 2017 and impugned order of 'no WS' was passed in December, 2017. Application for setting aside 'no WS' order was moved on 6.8.2018. In that eventuality, liberal approach was adopted by the Supreme Court. In that view of the matter, this Court do not find any jurisdictional error requiring interference under Article 227 of Constitution of India in the impugned order. Hence, writ petition stands **rejected**.

(S. G. CHAPALGAONKAR, J.)

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