



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.927 OF 2026**

GANESH GOVIND BANSODE THROUGH GPA RUPALI
GANESH BANSODE

VERSUS

PRALHAD JAGANNATH KALE AND OTHERS

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Mr. Amol Subhash Gandhi, Advocate for the Petitioner.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 28th JANUARY, 2026.**

FINAL ORDER:-

1. The present Writ Petition takes exception to order dated 22.12.2025 passed below Exhibit-95 by Joint Civil Judge Senior Division, Beed in Regular Civil Suit No.87/2013, whereby petitioner's application for setting aside 'no written statement' order has been rejected.

2. The petitioner is defendant no.3 in Regular Civil Suit No.87/2013. He was served with suit summons. However, failed to cause his appearance and file written statement within time prescribed. Eventually, on 26.06.2013, 'no written statement' order has been passed against him below Exhibit-1. Thereafter, defendant no.3 appeared before Trial Court and filed an application vide Exhibit-26 to set aside 'no written statement' order, which was allowed subject to cost of Rs.150/-. The petitioner could not avail liberty granted by Trial Court.

3. The present application has been filed on 10.12.2025 for setting aside 'no written statement' order dated 26.06.2013. The

petitioner stated that since he was continuously unwell, could not deposit cost and file written statement. The Trial Court rejected application holding that no reasons are given depicting exceptional circumstances, whereby petitioner was prevented to file written statement. The present application is moved when suit is at stage of final argument. Hence, application cannot be entertained.

4. Perusal of record shows that petitioner was served with suit summons in year 2013. In light of provisions contained in Order VIII Rule 1 of Code of Civil Procedure, it was obligatory on part of petitioner/defendant to file written statement within thirty days from date of service of summons. The said period was further extendable upto ninety days from date of service of summons. Although powers of Court to accept written statement beyond 90 days are not curtailed, such power is circumvented subject to extraordinary circumstances being made out by party seeking to tender written statement beyond prescribed period. In case of ***Parasmal Daulatram Jain Vs. Rameshwar Rathanlal Karwa***¹, this Court relying upon law laid down by Supreme Court in case of ***Kailash Vs. Nanhku and Others***² observed as under:

“The Supreme Court has construed the provision as directory and not mandatory. However, the Supreme Court went on to administer a note of caution that the Court may not be misunderstood as nullifying the entire force and impact and the entire life and vigour of the said provision. Thus, the Supreme Court in terms observed that ordinarily, the time schedule prescribed by Order VIII Rule 1 has to be

¹ 2020 (1) Bom.C.R. 435.

² (2005) 4 SCC 480.

honoured. The extension of time shall only be by way of exception and for reasons to be recorded in writing. It was further ruled in clear and unambiguous terms that in no case the defendant be permitted to seek extension of time when the Court is satisfied that it is a case of laxity or gross negligence on the part of the defendant. Undoubtedly, the Supreme Court concluded that no straight-jacket formula can be laid down except that the observance of the time schedule contemplated by Order VIII Rule 1 shall be the rule and departure therefrom an exception, made for satisfactory reasons only.”

5. In light of aforesaid observations, if reasons given in application filed by petitioner below Exhibit-95 are considered, except bald statement that petitioner was unwell, no particulars are tendered towards explanation of delay of nine years in tendering application. Pertinently, when petitioner had previously filed application for setting aside ‘no written statement’ order, which was favourably considered subject to payment of cost. However, petitioner failed to avail liberty granted by Court and moved present application, when suit was at stage of final hearing.

6. In that view of matter, this Court do not find any reason to cause interference in impugned order in exercise of Writ jurisdiction. Hence, Writ Petition sans merit.

7. In result, Writ Petition stands dismissed.

(S. G. CHAPALGAONKAR)
JUDGE