



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

WRIT PETITION NO. 7224 OF 2024

Rakhi Gopal Chiraniya and others

Vs.

Sau. Varsha Digamber Dhokne and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Palash K. Mohta, Advocate for petitioners.
None for respondents.

CORAM :- M. W. CHANDWANI, J.

DATED :- 24.02.2026

Though, contesting respondent nos. 1 and 2 were served but, nobody appears on their behalf.

2. Heard the learned counsel for the petitioners and perused the record.

3. The petition challenges the order dated 30.09.2024 passed below Exh.14 by Jt. Civil Judge Junior Division, Barshitakli, Dist. Akola (for short, "the Trial Court") in Regular Civil Suit No. 2/2023 rejecting the application filed by the petitioners herein seeking permission to file written statement.

4. The petitioners are the original defendants nos. 4 to 6 in the said suit filed by respondent nos. 1 and 2/original plaintiffs for partition and separate possession. Initially, the petitioners filed an application (Exh.9) for

rejection of the plaint and by order dated 25.09.2023, the application came to be rejected. Thereafter, on 31.10.2023, a no written statement order came to be passed by the Trial Court. On 20.11.2023, the petitioners filed an application (Exh.14) for permission to file written statement with counter claim and the same came to be rejected vide impugned order on the ground that the pendency of application for rejection of plaint does not extend the time for filing written statement and that there is considerable delay in filing the written statement hence, this petition.

5. It appears that the petitioners were prosecuting the application for rejection of the plaint which came to be rejected on 25.09.2023 and in the next month i.e. on 31.10.2023, the Trial Court passed the no written statement order. Immediately, after 20 days from passing of no written statement order, an application for permission to file written statement (Exh.14) along with written statement came to be filed by the petitioners.

6. No doubt, pendency of application for rejection of the plaint does not *ipso facto* extend the time for filing of written statement. Nonetheless, it is cardinal principle of law that the matter should be heard on merits and for technical reasons, substantive justice cannot be denied by the Courts. In my view, the Trial Court should have allowed the application by imposing stringent condition on the petitioners.

7. Therefore, in my considered view, for giving opportunity of hearing, the petitioners can be allowed to file written statement. Hence, the impugned order of rejecting permission to file written statement is hereby set aside. It is also informed that the petitioners have already deposited Rs.10,000/- under the directions of this Court. Though, respondent nos. 1 and 2 did not appear before the Court, the amount deposited by the petitioners can be paid to respondent nos. 1 and 2 towards costs.

8. The Trial Court is directed to take on record the written statement-cum-counter claim which is filed by the petitioners with the application for permission to file written statement (Exh.14).

9. The Registry is directed to remit the amount of Rs.10,000/- deposited by the petitioners along with accrued interest to the establishment of Civil Judge Junior Division, Barshitakli, Dist. Akola and it shall permit respondent nos.1 and 2/original plaintiffs to withdraw the said amount in equal proportion.

10. In the above-said terms, the petition is disposed of.

(M. W. CHANDWANI, J.)