



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

WRIT PETITION NO. 4389 OF 2025

Block Development Officer, Panchayat Samiti, Buldana,
Tq. and District Buldana.

PETITIONER

VERSUS

1. Bhagwan Atmaram Bali, Aged 56years, Occ:Agri & Service.
2. Shobha Bhagwan Bali, Aged 50 years, Occ:Agriculturist.
3. Amol Bhagwan Bali, Aged 32 years, Occ: Agriculturist.
4. Shekhar Bhagwan Bali, Aged 32 years, Occ: Agriculturist.
5. Swati Bhagwan Bali, Aged 28 years, Occ: Agriculturist.
6. Atmaram Baban Raut, Aged 48 years, Occ: Agriculturist.
7. Chhaya Atmaram Raut, Aged 40 years, Occ: Agriculturist.
8. Suman Baban Raut, Aged 68 years, Occ: Agriculturist.
9. Vishnu Baban Raut, Aged 44 years, Occ: Agriculturist.
10. Bebi Haribhau Zore, Aged 46 years, Occ: Agriculturist.

All R/o Village Sakhali Khurd, Tq. and Dist. Buldana.

11. The State of Maharashtra, Through Collector, Buldana.
12. Sub-Divisional Officer, Buldana, Tq. & Dist. Buldana.
13. Tahsildar, Buldana, Tq. & District Buldana.
14. Circle Officer, Sakhali Bk. Tq. and Dist. Buldana.
15. Gram Panchayat, Sakhali Khurd, Through its Secretary,
Office of G.P Sakhali Khurd, Tq. and Dist. Buldana.

RESPONDENTS

Shri Parth Sagdeo and Sharad Thakare, counsel for the petitioner.
Shri Tejas Deshpande, counsel for the respondent no.1.
Ms K.H. Bhondge, Assistant Government Pleader for the respondent nos.11 to 14.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : JANUARY 28, 2026

ORAL JUDGMENT

RULE. Rule is made returnable forthwith and heard finally with consent of the learned counsel for the parties.

2. The petitioner is defendant no.5 in Special Civil Suit No.24 of 2018 filed by the respondent nos.1 to 10 for recovery of compensation amount. An ex parte order was passed against the defendant no.5 and the application at Exhibit 178 filed by him to set aside the ex parte order and permission to file written statement was allowed by order dated 07.02.2023 subject to payment of costs of Rs.1,100/- which was directed to be deposited by the defendant no.5 on the same day in the Court or till such time extended by the trial Court. It was also observed that on failure to deposit the costs, the order shall automatically stand cancelled. On failure of the defendant no.5 to deposit the costs, an order dated 22.02.2023 came to be passed and the earlier order granting permission to file written statement came to be cancelled. Thereafter, the defendant no.5 filed application at Exhibit 207 for grant of permission to comply with the earlier order. This application came to be rejected by the trial Court by order dated 27.02.2025, which is subjected to challenge by way of instant petition.

3. The learned counsel for the petitioner submitted that the petitioner – defendant no.5 being Block Development Officer, Buldana was not in a position to immediately deposit the amount of costs of Rs.1,100/- without getting necessary administrative compliance in that regard. He also submitted that on account of frequent transfers of Government officials, the amount was not immediately deposited. He submitted that the suit

filed by the respondent nos.1 to 10 seeking compensation amount of Rs.1,42,52,494/- against the officials of the Government need to be permitted to be contested on merits and the valuable rights of the defendants to file written statement need to be protected. He submitted that the defendants have a valid defence to contest the suit on merits and depriving them of an opportunity to file written statement would amount to miscarriage of justice.

4. Opposing the petition, the learned counsel for the respondent no.1 submitted that the defendant no.5 was not at all diligent in filing the written statement. He submitted that the evidence of plaintiff in the suit is already over and the matter has reached the stage of final arguments. As such, at this stage of the trial, the defendant no.5 need not be granted any permission to file the written statement.

5. While considering the controversy, it has to be seen that after the 'no written statement' order was passed, the defendant no.5 had applied for setting aside of the said order and sought permission to file written statement after the evidence was recorded. Despite this, by a reasoned order dated 07.02.2023, the permission was granted subject to payment of costs of Rs.1,100/-, however the costs were not deposited within time. There is nothing on record to show that there was intentional delay on the part of the defendants to deposit the costs, however it is clear that the defendants were not diligent. It has to be seen that the suit is filed by the plaintiffs seeking compensation of Rs.1,42,52,494/- on account of loss of income from horticulture, against the Government officials

including the petitioner/defendant no.5. The claim for damages is made against the Government officials and it is with respect to the official duties discharged by them. The contentions of the petitioner that the suit is not maintainable in view of the Maharashtra Drinking Water Supply Requisition Act, 1983 is required to be decided on merits. The position of law is settled that the contesting issues need to be decided on merits and thus depriving the defendant no.5 to file written statement amounts to denial of an opportunity to contest the suit on merits. Considering the peculiar facts of the instant case, denying an opportunity to the petitioner/defendant no.5 to file written statement would be a pedantic approach. Although the record reveals that the defendant no.5 and other defendants were not diligent in filing the written statement despite grant of an opportunity, however the hardship caused to the respondent nos.1 to 10-plaintiffs can be compensated by awarding appropriate costs.

6. Having regard to the factual and legal aspects, I am of the considered opinion that interest of justice demands that an opportunity need to be afforded to the defendant no.5, the Government official, to contest the suit on merits by filing written statement. Considering the fact that the plaintiffs have made a huge claim against Government officials, a pragmatic approach is required to be adopted and therefore, the impugned order warrants interference and the petition needs to be allowed. Hence, the following order is passed:-

- I. The writ petition is allowed.
- II. The order dated 27.02.2025 passed by the trial Court on the application at Exhibit 207 in Regular Civil Suit No.24 of 2018 is quashed and set aside. The application filed by the defendant no.5 at Exhibit 207 in Regular Civil Suit No.24 of 2018 is allowed only to the extent of the defendant no.5 subject to payment of costs of Rs.15,000/- (Rupees Fifteen Thousand) to be paid by the petitioner/defendant no.5 to the respondent nos.1 to 10-plaintiffs within a period of four weeks from today.
7. Rule is made absolute in aforesaid terms with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)