



ORDER BELOW EXH. 19 IN SPL.C.S. No. 439/2022
(Mohanlal Agarwal & others Vs. The Commissioner and others)

CNR NO. MHLA020055932022

This is an application moved by defendant no. 2 to set aside no W.S. order dated 27/02/2023. According to applicant some documents and certified copies of previous litigation between the parties were required for preparation of written statement. Due to extreme old age and ill-health applicant could not obtain those documents, therefore, written statement could not be prepared in time. Accordingly, no W.S. order came to passed. It is contended that the matter relates to immovable property. The substantial rights of the applicant are involved in this matter. Therefore, it is submitted that application be allowed.

02. The plaintiff has filed say below the application. It is contended that at the outset application is liable to be rejected, because, the sufficient time was granted to the applicant to file written statement, however, it was not filed within time. It is further contended that reasons given for not filing written statement are not cogent. It is further contended that reason mentioned for not filing written statement is that some documents were not available, however, no documents are filed by the applicant. Therefore, it is prayed that application be rejected.

03. Heard both the sides. After going through the record, it appears that already sufficient time was given to the applicant to file written statement, however, written statement was not

filed, within 90 days. Thereafter, no W.S. order came to be passed after expiry of 90 days. The said order was passed on 27/02/2023. However, thereafter present application is moved on 06/07/2023. Therefore, it becomes clear that application is not diligent in taking steps since beginning. Therefore, there is delay on the part of the applicant in taking steps. It also appears that reasons for delay is mentioned that no documents were available for preparation of written statement. However, it appears that no documents are filed alongwith written statement, therefore, reasons given by the applicant are not cogent. However, it appears that matter is in respect of immovable property, therefore, considering the nature of the suit, one opportunity deserves to be granted to the applicant, so that matter can be decided once for all and multiplicity of proceeding can be avoided. However, considering the delay caused in taking steps, cost is required to be imposed. Hence, the following order is passed.

ORDER

Application is allowed, subject to cost of Rs. 500/-
(Rs. Five Hundred), which be paid to the plaintiff.

Dated 02-09-2023

**(N.R. Talekar)
Civil Judge S.D., Latur.**