

CNR NO.MHAHO2-000479-2010

REGULAR CIVIL SUIT NO. 277/10

ORDER BELOW EXH.45

1. Defendants No.1, 4, 6, 7 and 10 have filed this application for setting aside No W.S. order. It is submitted by the defendants that on the fixed date, defendant No.1 out of station due to his work, defendant No.4 is old age person due to his illness he cannot appeared and defendants No.6, 7 and 10 they went different places for their labour work, so they could not appeared before the Court. Hence, No W.S. order is passed by the court. Opportunity is given to the defendants to file their W.S. It is further submitted that there is no negligence on their part. Hence, to decide the matter on merit they are permitted to file W.S. on record.

2. Plaintiff filed say and strongly objected to this application. It is the contention of plaintiff that, on 05/12/2017, plaintiffs have filed amended plaint and filed copy of amended plaint in the said suit. But defendants received said copy after lapse of two month and after nine months plaintiff requested to condone the delay and setting aside No W.S. order passed against them. Intention of defendants are to prolong the suit. Hence, plaintiff prayed for reject the said application.

3. Heard both sides.

4. Perused the record of the case. The suit is filed for encroachment and mandatory injunction. The amended plaint filed by the plaintiff on 05/12/2017. The defendants had failed to file additional W.S. within time. There is delay of thirteenth months for filing the W.S. But to decide the matter on merit, it will be proper to given and opportunity to the defendants. Hence, I proceed to pass following order.

ORDER

Application is allowed subject to cost of Rs.1000/- be given to the plaintiff on or before next date.

Sd/-

(V.B.Kokate)

3rd Jt. Civil Judge J.D.,
Rahata

Date:-04/01/2019.