

ORDER BELOW EXH. 15 IN RCS. NO. 315/2018
(MHAH1900 1298 2018)

01. Defendant no.1 has filed this application to set-aside "No W.S." order passed against her. It is submitted that defendant went out of town to learn livelihood. Hence, she failed to file written statement within time. Hence, Ex parte order is passed against her. Defendant did not made the delay purposefully. If the WS is not taken on record then defendant will suffer irreparable loss. Hence, defendant no.1 prayed that Ex-parte order passed against her be set aside and her written statement be taken on record.

02. My Learned Predecessor has passed order on the application and directed defendant to clarify what defendant proceed exparte and without WS as well as whether application is filed on behalf of all the defendants. Plaintiff filed say overleaf the same application and stated that the application is false and frivolous. The application is filed by the defendants without mentioning which defendant has filed this application. The contentions in instant application are vague. There is no documentary proof to substantiate the contentions made in this application. Defendants are only prolonging this matter by way of filing this vague application. However, if this court is pleased to allow this application then instant application be allowed subject to cost of Rs. 200/- each to be paid by defendants to the plaintiffs.

03. Heard both sides. Perused record.

04. Pursuant to the order of my Learned Predecessor passed below Exh. 1 dtd 15-1-2020 defendants have filed purshis at Exh. 17 stating that ex parte order dtd. 01-02-2019 is passed against defendant no.3 to 6, 9, 11 and 12 and NO WS order dtd. 01-02-2019 is passed against defendant no.1,2 and 7. It is prayed that NO WS order dtd. 1-2-2019 and ex parte dtd. 1-2-2019 be set aside in the interest of justice.

05. Perused file and record. It appears that defendant no.2 has filed copy of his WS alongwith instant application and defendant nos. 1,3 to 13 have filed a purshis to adopt WS of defendant no.2. This suit isfiled for recovery of possession of encroached portion and for measurement and fixation of boundaries suit property. From file and record it appears that my learned Predecessor has passed exparte order against defendant no.3 to 6, 9, 11 and 12 on 01-02-2019 below Exh.1 and has also passed NO WS order against defendant no. 1,2 and 7 on 01-02-2019 below Exh.1. However, no order is passed against defendant no.8, 10 and 13. On perusal of record it shows that NO WS order is not yet passed against defendant no.8,10 and 13. Defendants in instant application has submitted that they went out of village due to which, delay is caused to file WS. The suit is related to immovable

property. Say of every party should come on record for fair trial and proper decision of the suit. Looking to the nature of suit and relief against defendants the written statement of defendant no.1 is necessary to come on record to avoid multiplicity of proceeding. Hence, application deserves to be allowed but obviously on cost. Hence, I pass the following order.

ORDER

1. Application is allowed subject to cost of Rs. 150/- each to be paid by defendants to the plaintiff.
2. After payment of cost amount by each of the defendants to the plaintiff, WS of defendant no.2 and purshis adopting say of defendant no.2 filed by defendant no.1,3 to 13 will be taken on record.

Place : Shevgaon
Date : 03/05/2024

(S. U. Jaguste)
Civil Judge Junior Division,
Shevgaon.