

(CNR No. MHAH-20-001011-2018)
ORDER BELOW EXH.45 IN REG.C.S NO. 266 of 2028.
Asaram Andure Vs. Laxman Garje + 6.

1. This an application filed by defendant No.3 & 4 in counter-claim for permission to file Written Statement/Say on record by setting aside No W.S. Order.

2. It is contention of defendant No.3 & 4 in counter-claim that, plaintiff in counter-claim has filed counter-claim for declaration, partition, possession and perpetual injunction against the defendants in counter-claim in respect of suit properties. They received suit summons however, due to non receipt of important information and thereafter due to lock-down out of Covid-19, they could not file Written Statement, within time, and therefore, No W.S. Order is passed. There is no deliberate delay. Hence, lastly they prayed to allow this application.

3. The plaintiff in counter-claim have strongly objected the application by filing his say and submitted that, there is deliberate delay to file written statement to prolong the matter. No sufficient reasons mentioned in the application. Sufficient and reasonable opportunity was given to defendant No.3 & 4 in counter-claim to file their W.S./Say on record but, they failed. Lastly plaintiff in counter-claim prayed to reject the application with costs. Heard both the sides.

4. It is not disputed that, there is delay to file written statement on counter-claim on record for defendant No.3 & 4 in

counter-claim. Defendant No.3 & 4 in counter-claim appeared and failed to file their written statement/say to counter-claim within time. Hence, order of No W.S. is passed. Moreover, the suit as well as counter-claim is for declaration, partition and perpetual injunction, in respect of immovable properties. Considering the reasons mentioned in the application and to decide the matter on merit and interest of justice, I pass the following order.

ORDER..

1. Application at Exh.45, is hereby allowed subject to cost of Rs.100/-.
2. Defendant No.3 & 4 in counter-claim are permitted to file their Written Statement/Say to counter-claim on record after payment of costs.

Date : 17/02/2022.

Sd/- x x x
(A.S. Birajdar)
Civil Judge (J.D.),
Pathardi.