MHAH220003942024

R.C.S. No. 71/2024

Lata Vinayak Madane

Vs.

Kashinath Sahadu Thombare

ORDER BELOW EXH.21

(Passed on 16/01/2025)

This is an application filed by the original plaintiff for setting aside no written statement order with permission to file his written statement on counter claim.

2. It is the contentions of the original plaintiff that she has not intentionally caused delay to file written statement on counter claim. Therefore, original plaintiff filed the present application for setting aside no written statement order with permission to file written statement on counter claim.

3. Original defendant/plaintiff of the counter claim filed say on overleaf of present application, wherein, she submitted that the present application is not legal and reason mentioned in the application is not true and legal. Original plaintiff has intentionally caused delay to file written statement to counter claim.

4. Heard learned advocate Mr. A. S. Punde for the original plaintiff. Also heard learned advocate Mr. S. J. Wakade for original defendant/plaintiff of the counter claim.

5. Perused the record. After perusal of record it appears that original defendant/plaintiff of the counter claim filed the counter claim for perpetual injunction.

6. Perused the record. It is the contentions of the original plaintiff that she has not intentionally caused delay to file written statement on counter claim. It is pertinent to note here that reasons mentioned in the present application are not proper and genuine. However, the present suit and counter claim are relating to the immovable property. If the application is allowed no prejudice will cause to original defendant. Per contra it will avoid the multiplicity of the proceeding. For fair trial, it is necessary to give an opportunity to the original plaintiff to defend the counter claim. If an opportunity is not given to the original plaintiff it will cause hardship to her. However, delay caused by the original plaintiff for filing written statement to counter claim can be compensated by imposing costs on him. So in the interest of justice, I proceed to pass the following order.

ORDER

1. The application is allowed with costs.
2. The no written statement order against original plaintiff/defendant is set aside.
3. The original plaintiff is permitted to file his written statement on counter claim subject to payment of costs of Rs. 400/- (Four Hundred Only) to original defendant /plaintiff of the counter claim.
4. If the original plaintiff is failed to comply the present order on or before next date then the present order is automatically set aside.

(Pronounced and dictated in open Court)

ROHAN VIJAYKUMAR THAYIL

Digitally signed by ROHAN VIJAYKUMAR THAYIL
Date: 2025.01.16 18:10:43 +0530

Date : 16/01/2025

(Rohan Vijaykumar Thayil)
2nd Jt. Civil Judge, Junior Division,
Karjat, Dist. Ahmednagar