

ORDER BELOW APPLICATION VIDE EXH.21 IN R.C.S.No.151/2018

(Asha Supekar Vs. Anil Supekar)

1] The present application filed by defendant no.1 to set aside NO WS order passed against him.

2] It is contention of the defendant no.1 that, plaintiff has filed suit for partition and possession. Defendant no.1 received summons/notice on 14.06.2018 and appeared before the Court on 25.06.2018. Defendant no.1 failed to file his WS within 30 or 90 days from the issuance of summons/notice and hence, No WS Order passed against him. Delay to file WS is not intentional. Wife of defendant no.1 is having health issues and for her treatment defendant no.1 used to travel out station. Hence, he defendant not received documents and important information in time, so, he failed to file his WS within prescribed time. It is necessary to file WS and it will help the Court to adjudicate the matter. If the application is not allowed, it will cause irreparable loss to the defendant. Hence, requested to allow the application.

3] The plaintiff has filed his say below the application and resisted the same. It is contended that, grounds mentioned in the application about delay are not void. Only to prolong the matter, defendant delayed filing WS. There is more than one year delay. Hence, the application deserves to be rejected and cost be given to the plaintiff.

4] Heard both the advocates. Considering the contentions, following points arise for my consideration and I have recorded my findings thereon along with the reasons as below:

Sr.No.	Points	Findings
1]	Whether NO WS order passed against defendant no.1 liable to set aside ?	Yes
2]	What order ?	As per final order...

REASONS:

5] The record shows that defendant no.1 is served with summons and notice on 14.06.2018. The defendant no.1 was expected to file his written statement approximately on or before 14.09.2018. The present application is filed on 13.06.2019. There is approximately 9 months delay to file written statement on record. Delay of 9 months can be compensated by imposing reasonable cost upon the defendants. The suit is filed for partition and possession. The valuable rights of defendant no.1 are involved in the suit property. Hence, opportunity has to be given to the defendant. Hence, considering the principle of natural justice I answer point no.1 in the affirmative and in result of point no.2 I pass following order:

:: ORDER ::

- 1] The application vide Exh.21 is allowed on cost of Rs.1000/- shall be given to the plaintiffs on next date.
- 2] Cost in Cause.

Date: 05/02/2020

Sd/-xxx
(R.B.Kulkarni)
Jt. Civil Judge (J.D.),
Shrigonda (Court No.1)