

ORDER BELOW EXH. 35 IN R. C. S. NO. 259/2015.

(CNR : MHAH23-000347-2015)

1. The present application moved by the defendant No. 1 for setting-aside "No W.S." order passed against him. Say of plaintiffs is called. They have filed their say and objected the application.

2. It is argued on behalf of defendant No. 1 that he ought to have filed his W.S. within stipulated period, however, for want of documents, he could not file his W.S. It is further argued that, considering the reason in application, it may be allowed.

3. On the other hand, it is argued on behalf of the plaintiffs that application filed by the defendant No. 1 is not legal and proper. It is further argued that defendant No. 1 has received suit summons by registered post on 14/08/2018, however, he has filed present application on 14/08/2019. It is further argued that no sufficient reason is given by the defendant No. 1. Hence, application may be rejected.

4. Perused application, say and record of the case. Heard both the parties. On perusing record, it appears that defendant No. 1 has failed to file his written statement therefore, order came to be passed against him on 16/11/2018 to proceed matter without his W.S. Further, it appears that he has filed present application on 14/08/2019 to set aside "No W.S." order passed against him. Thus, it appears that he has filed present application near about after eight months of passing order of "No W.S." against him. Further, he has given reason that for want of information and documents, he could not file his written statement within stipulated period. He has filed affidavit at Exh. 36 to that effect. Perusing nature of suit filed by plaintiffs, I am of

the view that it is necessary to give an opportunity to defendant No. 1 to file written statement and contest the matter, in the interest of justice. Further, inconvenience caused to the plaintiffs needs to be consider. Hence, I proceed to pass following order.

ORDER

The application (Exh. 35) is hereby allowed subject to costs of Rs. 1000/- to be paid to the plaintiffs on or before next date.

(Dictated and pronounced in open Court.)

Shrigonda.
Date : 18/02/2020.

(Sangram S. Shinde)
Civil Judge, Senior Division,
Shrigonda.