

ORDER BELOW EXH. 16 IN SPL. C. S. NO. 40/2019.

(CNR : MHAH23-000747-2019)

1. The present application moved by the defendants to set aside 'No W.S.' order passed against them on 18/12/2020. Say of plaintiff is called. He has filed his say and objected the application.

2. It is argued on behalf of defendants that, plaintiffs have filed suit for declaration and injunction against them. It is further argued that they have appeared in the matter however, they failed to file their written-statement within stipulated period therefore, order came to be passed on 18/12/2020 to proceed matter without W.S. against them. It is further argued that due to pandemic Covid-19 disease and for want of necessary documents he could not file his written-statement within stipulated period. It is further argued that hence, considering the said reason in their application, it may be allowed in the interest of justice.

3. On the other hand, it is argued on behalf of the plaintiffs that application is filed by the defendants is not legal and proper. It is further argued that ample opportunity was given to defendant to file their W.S. however, they have purposely prolonged the matter. It is further argued that plaintiff has already filed his evidence on affidavit as well as affidavit of his witnesses and matter is at fag end. It is further argued that reason given by the defendants is not satisfactory. It is further argued that therefore, application may be rejected and if it is to be allowed cost of Rs. 15,000/- may be imposed on the defendants.

4. Perused application, say and record of the case. Heard both the parties. On perusing record, it appears that plaintiffs have

filed suit for declaration and injunction against the defendants. Further, it appears that defendants have appeared in the matter on 03/03/2020 through advocate however, failed to file their written-statement therefore, order was passed below Exh. 1 on 18/12/2020 to proceed matter without their say and written-statement. Further, it appears that thereafter plaintiff has filed his evidence on affidavit at Exh. 11 on 19/07/2021 and evidence on affidavit of his witnesses at Exh. 14 and 15 on 05/10/2021. Admittedly, plaintiff has adduced his evidence and evidence of his witnesses however, he has not closed his evidence. Moreover, reason given by the defendants regarding pandemic Covid-19 disease has to be considered as there were directions not to pass adverse order and functioning of the Court was slow. Though, the regular functioning of the Court was started in the month of February 2021 and again since April 2021 functioning of the Court was slow and directions were given not to pass adverse order. Further, again regular functioning of the Court was started in the month of June 2021. Therefore, considering the reason of Covid-19 disease, it is reasonable and satisfactory to set aside 'No W.S.' order passed against defendants. Hence, I proceed to pass following order.

ORDER

The application (Exh. 16) is hereby allowed.

(Dictated and pronounced in open Court.)

Shrigonda.
Date : 12/11/2021.

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