

ORDER BELOW EXH.18 IN R.C.S.NO.351/2015 :-

1. The present application moved by the defendant nos.3 to 5 for setting-aside no w.s. order passed against them.

2. As per the defendants, as they were unable to get documents and information in time, they failed to file their written-statement within time. Therefore, they prayed to allow the application.

3. The plaintiff contested the present application by stating that the reason mentioned by the defendants is incorrect and there is no evidence to support the said reason. Hence, he prayed to reject the application.

4. By considering the rival allegations by the parties, following points arises for my determination to which I record findings for the reasons stated thereunder :-

S.N.	POINTS	FINDINGS
1	Do defendants prove that there isIn the Affirmative sufficient cause for setting-aside the no w.s. order ?	

2 What order ?

....As per final order

REASONS

AS TO POINT NO.1 :-

5. It is material to note that the suit summons were served on present defendants on 24.11.2015. Thereafter, it was expected from the defendants to file written-statement within 90 days. The defendants specifically contended that as they were unable to get some documents and information in time, they failed to file their written-statement within time. The said fact is also supported by affidavit of the defendant no.3 on oath. Therefore, considering the facts and circumstances, in my considered view, the reason put-forth by the defendants cannot be disbelieved. Moreover, there is no inordinate delay on the part of present defendants. The suit is for declaration and partition. Therefore, in order to decide the matter on merits, it is necessary to give fair chance to the defendants to defend the suit. Hence, in the interest of justice, application deserves to be allowed. Moreover, it will be fit to compensate the plaintiff by awarding cost. Hence, I answer point no.1 in the affirmative and I proceed to pass following order :-

ORDER

- 1 The application (Exh.18) is hereby allowed on payment of cost of Rs.1,000/- to the plaintiff.
- 2 The defendants are further directed to pay the cost within 14 days and failure to comply, leads to rejection of present application.

Shrigonda.
Date : 28/07/2016.

(K. M. Kayangude)
Jt.Civil Judge Senior Division,
Shrigonda