

**ORDER BELOW APPLICATION VIDE EXH.17 IN**  
**R.C.S.No. 355/2017.**

1] The defendant No. 1 to 3 have filed present application for setting aside no W.S. order passed against them. The plaintiffs have filed their on the backside of the application and strongly objected application and prayed for rejection of the same.

2] It is the contention of the defendant No. 1 to 3 that due to non-availability of important documents, they failed to file their written statement within limitation.

3] Heard both sides. Perused the record.

4] Considering the rival contentions of both the parties, following points arise for my consideration and I have recorded my finding alongwith reason as below.

<b>Sr.No.</b>	<b>Points</b>	<b>Findings</b>
1]	Whether No W.S. order passed against the defendant No. 1 to 3 is liable to be set aside ?	Yes
2]	What order ?	As per final order

**:: Reasons ::**

**As to point nos. 1 and 2.**

5] It is contention of the defendant no. 1 to 3 that due to

non-availability of important documents, the failed to file their written statement within limitation. The learned advocate for defendant no. 1 to 3 submitted that the suit is about immovable property and defendants have right and interest in it, so opportunity should be given to the defendant. The learned advocate for the plaintiff raised objection on the application.

6] As per principle of natural justice both the parties should be given opportunity to contest the suit. It would be necessary to decide matter on merits finally. Considering the nature of suit for proper adjudication, an opportunity to be heard should be given to the defendant no. 1 to 3 If opportunity is given to the said defendants, the plaintiff will not suffer any irreparable loss. He can be compensated by affording costs. Hence, in the interest of justice I proceed to pass following order.

**:: ORDER ::**

- 1) The application vide Exh. 17 is allowed.
- 2) No W.S. order passed against said defendant No.1 to 3 is set aside subject to costs of Rs.500/- (Rupees Five Hundred Only) to the plaintiff.

Date: 21/01/2019.

**( Pankaj K. Ahir )**  
Jt. Civil Judge (J.D.),  
Shrigonda Dist. Ahmednagar