

ORDER BELOW EXH. 13 IN Spl.C.S.NO. 1/2018

(CNR : MHAH23-000880-2017)

1. The present application moved by the defendant Nos.1 to 6 for setting-aside no W.S. order passed against them.

2. As per the defendants, the suit is based on vary old documents. Therefore, the defendants were unable to get documents and information within time, they failed to file their written-statement in time. Hence, they prayed to allow the application.

3. The plaintiffs 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, they 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	Does defendant Nos.1 to 6 prove that there is sufficient cause for condoning delay in filling written-statement ?In the Affirmative
2	What order ?As per final order

REASONS

AS TO POINT NO.1 :-

5. It is material to note that the suit summons served on this defendant on 27.02.2018. The defendants specifically contended that, the suit is based on vary old documents and they were unable to get documents and information within time. Therefore, they failed to file their written-statement in time. The said fact is also supported by affidavit of the defendant No.1 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.13) is hereby allowed on payment of cost of Rs.500/- to the plaintiff.
- 2 The defendant Nos.1 to 6 are further directed to pay the cost within 14 days and failure to comply, leads to rejection of present application.

Sd/-

Shrigonda.
Date : 03/08/2018.

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