

**ORDER BELOW APPLICATION VIDE EXH.49**  
**IN R. C. S. No. 271/2011.**

1) The defendant no.4 is filed present application for setting aside no W.S. order passed against him. It is the contention of said defendant that the documents for filing W.S. were not available to him and he failed to file his W.S. within limitation.

2) The plaintiff filed say at exh. 51 and strongly objected the application that defendant has filed false application and prayed for rejection of application about the setting aside no W.S. Order.

3) Heard learned advocate Mr. Z. T. Gaikwad for defendants and learned advocate Mr. S. P. Chitale for plaintiff. Considering the rival contention of the parties, the following points arise for my consideration and I have recorded my finding alongwith reason as below.

<b>No.</b>	<b>POINTS</b>	<b>FINDINGS</b>
1.	Whether no W.S. Order passed against defendant no. 4 is liable to set aside ?	Yes.
2.	What order ?	As per final order.

**REASONS****4) AS TO POINT NO.1 AND 2.**

It is the contention of defendant no. 4 that the important documents were not available to him and he failed to file his written statement within limitation. On the contrary the plaintiff objected the application that false application is filed and prayed for rejection of application.

5) Considering the nature of suit an opportunity to be heard should be given to the defendant. If opportunity will be given to the defendant no. 4, the plaintiff will not suffer any irreparable loss. The plaintiff can be very well compensated by affording costs upon the defendants. Hence, considering submission and for proper adjudication in the interest of justice no W.S. Order passed against defendant no. 4 is liable to be set aside. Hence, I give finding to point no.1 in the affirmative and in answer to point no.2 I proceed to pass following order.

**ORDER**

(1) The application vide exh. 49 is allowed subject to costs of Rs.1,500/-(Rupees One Thousand Five Hundred Only).

(2) The defendant no. 4 to pay costs to the plaintiff.

Date: 28/11/2017.

( Mrs. V. B. Patil )  
Jt. Civil Judge Jr.Dn.,  
Shrigonda Dist. Ahmednagar