

ORDER BELOW EXH. 40 IN RCS NO. 359/2015

(CNR No.MHAH250007892015)

This is application by defendant No. 11 praying to set aside No cross order passed against him.

2. It is submitted that as relevant documents for filing written statement were not available in time, he could not file written statement within statutory period and No W.S. order came to be passed against him. Hence, said order be set aside in the interest of justice.

3. Application is opposed by plaintiffs by submitting it to be false. Plaintiffs submitted that much time has been lapsed after passing order against defendant No.11. In alternate if application is to be allowed, heavy costs be imposed.

4. Heard learned advocate on either side.

5. It appears that summons sent to defendant No. 11 (Exh.37) received duly served on 12.09.2022. It appears that objection of plaintiffs as to lapse of much time after passing order against defendant No. 11 seems to be not correct. Perusal of record shows that no such order of defendant No. 11 has been passed in the suit. Therefore, permission is to be granted to defendant. Defendant No. 11 has submitted that owing to non-receipt of documents, he could not file written statement within stipulated period. It appears that the application is supported by affidavit. Moreover, he has filed W.S. alongwith present application. The suit is related with immovable property. For proper adjudication of the suit on merits, it is necessary to afford opportunity to defendant to file his W.S. in the interest of justice. Hence, I pass following order,

ORDER

1. Application is allowed.
2. Defendant No. 11 is permitted to file his written statement on record.

Date : 23.11.2022

(R. K. Deshpande)
Civil Judge Junior Division,
Parner.