

Order below exh. 21 in MACP No. 27/2023
CNR MHAK01-000401-2023
Lalita vs. Rajesh + 2

Respondent no.1 by way of the present application has prayed for setting aside the No WS order passed against him, contending that because of health problem, he could not file written statement on record within time.

2] The application has been resisted by the claimant by filing say overleaf the application contending that the application is not tenable. The No WS order has been passed on 23.08.2023. Thereafter also the respondent has not made efforts to file written statement on record. Hence, prayed for rejection of the application.

3] Heard both the sides. Perused the record. The notice was served on the respondent on 21.03.2023. No WS order was passed on 23.08.2023. Prior to that the application filed by the respondent no.1 for time to file written statement was rejected on 02.08.2023. Thereafter, respondent no.1 and his advocate both were continuously absent. The issues were framed in the matter on 03.10.2023. On 25.04.2024 i.e. after about eight months of passing No WS order the present application came to be filed on the basis of health problem. However, no medical document

has been filed in support of his contention. During the course of arguments, the ld. advocate for respondent no.1 emphasized on setting aside the No WS order and a permission to file WS on record for the purpose of just decision of the case. The ld. advocate for the claimant expressed that the respondent is not entitled to any liberty. Undoubtedly, there is a delay in filing of written statement. However, considering the importance of written statement in the decision of the case on merit, the No WS order can be set aside, for which, the claimant can be adequately compensated. I believe a cost of Rs. 500/- should be adequate. Hence, the orders.

ORDER

- 1] The application is hereby allowed.
- 2] The No WS order passed against respondent no.1 below exh.1 dt. 23.08.2023 stands set aside subject to cost of ₹ 500/-, to be paid to the claimant or deposited in the court on or before next date.

(Smt. M.S. Bhadane)

Dt. 10.06.2024. Adhoc District Judge-1, Akola.

Certificate

I hereby certify that the contents of this PDF File are same word for word as per original order.

Name of Steno : A.J. Dharamkar.

Court's name : Adhoc Dist. Judge-1 & ASJ,
Akola.

Date of dictation : 10.06.2024.

Signed by Presiding
Officer on : 11.06.2024.

Uploaded on : 11.06.2024.