

RCS No.61/2018

Kamal + 1 -Vrs- Udhavpuri + 1

Order Below Exh.18

(Dated 15th March, 2019)

By the present application, the applicant (defendant No.1), praying for setting aside no W.S. order and permission to file reply/W.S.

2] Heard the learned counsels for both the parties.

3] The learned counsel for the applicant submitted that, the applicant was suffering from blood pressure and temperature and taking treatment during the period on 18/10/2018 to 25/10/2018. Therefore, he submitted, he could not remain present before the court and file his reply/W.S. He submitted that, in the interest of justice, an opportunity may be given to him to file the reply. Hence, he prayed accordingly.

4] The learned counsel for the defendant, on the other hand, opposed the application and submitted that despite of sufficient opportunity, the applicant failed to file reply/W.S. He submitted that, no medical certificate in support of the submission is filed by the applicant. Hence, he prayed for rejection of the application.

5] Perused the record of the case. It is seen that, the plaintiff has filed a suit for declaration, partition, separate possesses and permanent injunction against the applicant and other defendant claiming their share in the suit property. As the defendants had failed to file their reply/W.S., by an order dated 25/10/2018, the suit was proceeded without their reply/W.S. According to the applicant, during the period of 18/10/2018 to 25/10/2018, he was taking treatment on his blood pressure and temperature. He appears to be the real brother of the Non-applicant

(Plaintiff). The applicant and his brother are only the contesting party to the present suit. The reason given by the applicant appears to be convincing. Considering the reason, an opportunity, in interest of justice is to be given to the applicant to file his reply / W.S on imposing reasonable costs. Hence, the following order is passed.

Order

- 1] The no reply /W.S. order, dated 25/10/2018 is hereby set aside subject to costs of Rs. 300/- to be paid to the Non-applicants/Plaintiffs.

- 2] The reply / W.S. of the applicant be taken on record, after compliance of aforesaid condition.

Dt/- 15/03/2019

(M.J.Mohod)
Jt. CJJD.,Akot.