

MHAU050025222024



**R.C.S. No.402/2024**  
**Nirmala Vs. Abarao and**  
**another.**

**ORDER BELOW EXH.23**  
**[Passed on : 18.11.2025]**

This is an application to set aside 'No W.S.' order passed below counter-claim of the defendant.

2. The plaintiff assert that due to non-availability of documents in respective of disputed land she could not file her written statement on counter-claim of the defendants; therefore, 'No W.S.' order came to be passed against her. It is further contention of the plaintiff that delay in filing written statement on counter-claim is neither deliberate nor intentional. She intends to challenge claim raised by the defendant. If opportunity is not provided to her, then she will suffer irreparable loss. With these contentions, the plaintiff has prayed to set aside 'No W.S.' order passed against her.

3. The defendants have opposed application and asserted that application of the plaintiff is illegal and she is trying to misuse process of law. There is inordinate delay in filing of the application and it is not supported by cogent and plausible reasons. With these contentions, the defendants have prayed to reject application with heavy cost.

4. Heard arguments and perused record.

5. It is matter of record that defendants have filed counter-claim against instant plaintiff. Due to inordinate delay in filing written statement on counter-claim of the defendant, necessary order came to be passed against the plaintiff. By filing instant

application, the plaintiff has prayed to set aside said order. Needless to mention that application of the plaintiff is not supported by cogent, satisfactory and plausible reasons, but having regard to controversy between parties to the suit, stage of the matter and other relevant aspects, reasonable opportunity needs to be granted to the plaintiff to contest counter-claim of the defendants. At the same time, it must be noted that delay caused in filing written statement on counter-claim has to be compensated in terms of money.

6. In the light of above discussion, I proceed to pass following order:

**ORDER**

Application (Exh.23) is allowed subject to payment of cost of Rs.1,200/- to the defendants on or before next date and 'No W.S.' order passed below Exh.13 is set aside.

*(Dictated in open Court).*

Date:- 18.11.2025.

**(A. B. Shaikh)**  
Civil Judge Senior Division,  
Vaijapur.