



MHAU060008502018.

R.C.S. No.88/2018.
Premchand & oths Vs. Gaban & oths.

ORDER PASSED BELOW EXH.21.

1] The defendant Nos. 4 and 5 filed present application for setting aside no W.S. order passed against them. The plaintiff filed his say on the application and has given no objection application and prayed for allowing the application.

2] It is the contention of the defendant Nos. 4 and 5 that due to illness of defendant no.4 and 5 they failed to file their written statement within limitation.

3] Heard both sides. Perused the record.

4] Considering the rival contentions of both the parties, following points arise for my consideration and I have recorded my finding along with reason as below.

Sr.No.	Points	Findings
1]	Whether No W.S. order passed against the defendant Nos.4 and 5 are liable to be set aside ?	Yes
2]	What order ?	As per final order

:: Reasons ::

As to point nos. 1 and 2.

5] It is contention of the defendant Nos. 4 and 5 that to illness of defendant nos.4 and 5 they failed to file their written statement within

limitation. The learned advocate for defendants submitted that the suit is about immovable property in respect of partition and declaration and defendants has right and interest in it, so opportunity should be given to the defendants. The learned advocate for the plaintiff raised no objection on the application.

6] As per principle of natural justice both the parties should be given opportunity to contest the suit. It would be necessary to decide matter on merits finally. Considering the nature of suit for proper adjudication, an opportunity to be heard should be given to the defendants. If opportunity is given to the defendants, the plaintiff will not suffer any irreparable loss. He can be compensated by affording costs. Hence, in the interest of justice I proceed to pass following order.

:: ORDER ::

- 1) The application vide Exh.21 is allowed.
- 2) W.S. of defendant Nos.4 and 5 is taken on record subject to costs of Rs.200/- (*Rupees Two Hundred Only*) to the plaintiff.

Date: 24.01.2020.

Civil Judge (J.D.),
Kannad.

CERTIFICATE

I affirm that the contents of this P.D.F. file order are same, word to word as per the original Order.

Name of the Stenographer : K. P. Patil

Court : C.J.J.D. & JMFC, Kannad.

Date : 24.01.2020.

Order signed by the
presiding officer on : 24.01.2020.

Order uploaded on : 28.01.2020.

Order is digitally signed on : 28.01.2020.