



MHAU080022172022.

R.C.S.No.317/2022.
Shobhabai V/s. Dilip.

ORDER BELOW EXH-17.

1. Perused the application, say and documents on record.
2. Heard the argument of both sides.
3. Defendant has filed the present application to set aside no written statement and no say order passed against him. The defendant in his application contended that, he was out of station, he has not obtained the document therefore, he has not filed his written statement and say within time prescribed by the law. Defendant further contended that, he has no intention to prolong the proceeding of present suit. It is further contended that, conduct of the defendant is accidental and not intentional. Hence, to set aside no written statement and no say order the present application is filed.
4. The plaintiffs filed their say and averse that, after due service of summons to defendant on 05.09.2022, defendant has not filed his written statement and say. The application is liable to be rejected. Heavy cost be imposed on the defendant. The ample opportunity is already given to the defendant to file his written statement and say. In such a circumstances he has not filed the written statement and say within time. The plaintiffs also averse that, he has urgency to proceed further with suit however, defendant any how with the intention to prolong the proceeding has not filed his say and written statement. Considering all these facts the application is liable to be rejected.
5. In order to decide the suit on merits, it is necessary to give opportunity to the defendant to file his written statement and say.

The application is supported with affidavit. If the written statement and say of the defendant has not come on the record, then the defendant will remained unheard. The defendant will suffer irreparable loss. The defendant will not get his right to defence if the application is rejected. The Hon'ble Apex Court also laid down that, the Court should take liberal view while setting aside no written statement and say order. Delay caused in proceeding can be adequately compensated by awarding cost to the plaintiff. Considering the reason mentioned in the application and in order decide to suit on merits, I pass following order : -

ORDER

1. The application is allowed.
2. No written statement and no say order passed against defendant is hereby set aside subject to the cost of Rs.1000/- to be paid by defendant to plaintiff.

Sillod.
Date - 06.02.2024.


V. A. Jadhav.
2nd Jt.C.J.J.Division Sillod.

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 Court	:-	Jt. Civil Judge (J.D.) Sillod.
Name of the Stenographer	:-	K. P. Patil.
Date of order	:-	06.02.2024.
Order signed by the P.O on	:-	06.02.2024.
Order uploaded on CIS	:-	08.02.2024.
Signed by digital signature on	:-	Expired.

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