

R.C.S. No.51/2021
Gajrabai Vs. Muktanand Grahnirman Sanstha

MHAU130000902021

ORDER BELOW EXH. 44

1. By this application the defendant No.2 (i to iv) prayed to set aside no w. s. order passed against them on 28/3/2023.
2. Read the application and reply of the plaintiffs at Exh.45. Heard Ld. Advocates of the rival parties.
3. Ld. Advocate for defendant No.2 (i to iv) submitted that, the defendant No.2 (i to iv) could not file the written statement and reply within stipulated period. They have presented their written statement and reply along with this application. They have a good case on merit. In order to decide the controversy between the parties on merit, it is necessary to set aside said order and permit defendant No.2 (i to iv) to file their written statement.
4. Ld. Advocate for plaintiffs submitted that, sufficient opportunity is already given to defendant No.2 (i to iv) to file written statement. However, they have adopted delaying tactics. No reason is mentioned in the application for failure to file written statement within stipulated period. Present application is also made after long time of passing said order. Therefore he prayed to reject the application.
5. It is a matter of record that, on 28/03/2023 this court has passed an order proceeding without written statement of defendant No.2 (i to iv). It is seen that, the application does not disclose the circumstances which prevented them from filing written statement and reply within stipulated period. On the other hand, present application is coupled with the written statement and it

shows bona fides on the part of defendant No.2 (i to iv) to contest suit on merits. In order to have an adjudication of the dispute on merit, it is desirable to allow the application. However, it is necessary to compensate the plaintiffs for the inconvenience caused to them due to such conduct of defendant No.2 (i to iv). Hence, I pass the following order :

ORDER

1. Applications stand allowed with costs of Rs.2500/- payable to the plaintiffs.
2. An order dt. 28/03/2023 passed below Exh. 1 proceeding without W.S. against defendant No.2 (i to iv) is set aside.

Date :-20.09.2024.

(Shri. N.H. Tikhe)
Civil Judge Senior Division
(Corporation Court), Aurangabad.

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	: S.D.Chavan
Court	: C.J.S.D.(Corporation Court), Aurangabad
Date	: 20.09.2024.
Order signed by the presiding officer on	: 20.09.2024.
Order uploaded on	: 20.09.2024.