

MHNG020053212019



Spl.CS No. 26/2020
Vidarbha Kokan Gra.Bank
Vs.
Ganpat Dhoke and Other.

Order below application Exh.10

(Passed on 20th June, 2023)

1] The defendant has filed application for setting aside no written statement order dtd.17.02.2023.

2] It is averred in the application that the defendant No.2 and his counsel was present before the court in first half. But the defendant No.2 not filed written statement. The order of without written statement was passed below Exh.1 against defendant No.2. Hence, prayed that without written statement order dated 17.02.2023 be set aside.

3] The plaintiff has filed say and strongly opposed the application. It is contended that on 18.03.2023 the plaintiff and P.W.No.2 were present before the court since morning. The defendant are not ready to conduct cross today also. They want to harass and so filed this application. Hence, prayed that application be rejected with heavy costs. The plaintiff has filed his say on the said application and opposed the application. It is stated on the say that defendant No.2 has been duly served summons on 12.04.2022 and filed vakalatnama, registered address on 28.04.2022. But not filed the application for time to

file reply. The application for time to file reply has been filed on just date of appearance. After more than 1 year the defendant No.2 is praying for filing reply/ws on record without stating any reason for delay in filing ws. Hence, prayed for rejection of application.

4] Heard learned advocate for the plaintiff. However, it is necessary to give fair opportunity to the defendant to defend themselves. So far as delay is concerned it can be compensated by way of costs. Hence, in the interest of justice, without written statement order dated 17.02.2023 is required to be set aside. Hence, I pass the following order :-

ORDER

1. Application is allowed.
2. No written statement is set aside subject to costs of Rs.500/- each.

Nagpur
Dt. 20.06.2023

Sd/-
(A.A. Dhumkekar)
6th Jt. Civil Judge Sr. Dn.,
Nagpur.

Certificate

I affirm that the contents of order are word to word as per original order uploaded in the CIS System by way of PDF file.

Name of Steno – Smt.V.N. Meshram