



CNR NO. MHCO010002892023

Dispute no. 228/2023

Deepak Jagdish Tejale

Vs.

Pavankumar N. Sinh & another

ORDERS BELOW EXH. 20

1) Present application is made by the disputant to forfeit right of opponent nos.1 to file written statement and to pass no written statement order against him.

2) Case of disputant in brief is as follows:

An order was passed vide exh. 12 dated 4th July 2024 granting final opportunity to opponent nos. 1 to file his written statement subject to costs of Rs. 2500/- be paid to the disputant on or before 28th August 2024 without fail. However, on 28th August 2024, an application vide exh. 16 was made to seek extension to comply with aforementioned order by the opponent nos.1. the said application was allowed by order dated 22nd October 2024 subject to costs of Rs. 750/- be paid to the disputant on the next date i.e. 8th January 2025 without fail.

3) Despite of granting sufficient opportunities, opponent nos.1 failed to comply with aforementioned orders. Opponent nos.1 is trying to delay the matter and wasting



time of the court. Hence, right of opponent nos. 1 to file written statement be forfeited and matter be proceeded without his written statement.

4) Case of opponent nos.1 in brief is as follows:

Opponent nos.1 denied contention of present application vide exh. 22 that delay caused in paying costs is not intentional. Due to miscommunication between client and advocate, delay was caused. Opponent nos.1 is ready to comply with aforementioned orders today. Therefore, in the interest of justice permission be granted to comply with the same.

5) Heard both the sides. Perused the record. In the present case, on **4th July 2024** vide **exh. 12** an order was passed condoning delay caused in filing written statement by the opponent nos. 1 subject to costs of rs. 2500/- to be paid to disputant on before next date in the present dispute. The next date was 23rd August 2024.

6) Opponent Nos. 1 failed to comply on the said date and made an application vide exh. 16 seeking extension to comply with aforementioned order. The application vide **exh. 16** was allowed by order dated **22nd October 2024**



subject to costs of Rs. 750/- to be paid to the disputant on the next date i.e. 8th January 2025.

7) On the said date, opponent nos.1 did not comply with the said orders. But a pursis vide exh. 19 was filed by his learned advocate. It was mentioned in the same that no instruction from client has been received regarding compliance. Hence, on the next date, learned advocate will withdraw his appearance. On the very same, present application was filed by the disputant.

8) Today, opponent nos. 1 has made an application vide exh.21 to comply with aforementioned orders. Admittedly, opponent nos. 1 has failed to avail opportunities given to file written statement on record. Miscommunication between parties cannot be a reason to not to comply with orders of the court. Hence, reason stated by opponent nos.1 does not sound justified to me.

9) However, considering the prayer made in application vide exh. 21 and nature of present dispute, to decide the same on merit, in my opinion it is necessary to take written statement on record. Hence, I find it fit to pass the following order:



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ORDER:

1. Application is rejected.
2. Opponent nos. 1 to comply with orders dates 4th July 2024 vide exh. 12 and 22nd October 2024 vide exh. 16 on the next date without fail. In devoid of the same, aforementioned orders vide exh. 12 and 16, along with present order will stand vacated.

Place: Mumbai
Date: 24/03/2025

Sd/-
(Prachi N. Gosavi)
Judge, Co-operative Court No.4,
Mumbai.