

ORDER BELOW EXH.23

This is an application filed by defendants for setting aside no written statement order passed on 30.09.2022 and permission to file written statement. Perused application and say. Heard both side.

2. It is contended by defendants that, defendant appeared in present suit but present suit is for immovable properties, he have much time for collecting documents in respect of said properties. Also in meanwhile due to compromise talk he failed to file his written statement. Defendants have no ill intention to prolong the proceeding. Valuable rights of defendants are involved in the suit and it requires say of them on record. Also, it will help in deciding the matter on merit. Therefore, prayed for give permission to file written statement.

3. Say to this application has been filed by the plaintiff below Exh.24 and strongly objected on the count that, plaintiff have filed present suit for the relief of partition in Hindu joint family properties. Notices were duly served on defendants and they have appeared on 04.03.2022 and 01.08.2022 but they did not file written statement within prescribed period. Present application is filed only for change the direction of court and to harass the plaintiff. Defendants did not filed any concrete reason and proof with the application. So they did not mentioned their application that when notices were served on them and how much days delay so caused. Ample time was given to defendants to file their written statement. Therefore, prayed for rejection of the application.

4. Upon perusal of record it appears that, the suit is for partition, injunction and declaration. Notices were served on defendants on 10.02.2022, 18.06.2022 and they have appeared through their respective advocate on

04.03.2022 and 01.08.2022. Present application is filed by defendants on 13.12.2022. Defendants must have filed their say within 90 days from service of notice, but they failed to file their say. On the other hand the Court passed no written statement order on 30.09.2022 against the defendants below Exh.1.

5. Reason mentioned in the present application is due to compromise talk defendants are failed to file his say within specified time is trustworthy and sufficient to condone the delay. So also, the valuable rights of defendants are involved in it. If an opportunity is not given to defendants at this stage, injustice will be caused to them. It is the principle of natural justice that an opportunity should be provided to the parties to the suit to adduce their say. Delay caused to file written statement is not huge. Therefore, the application is liable to be allowed. No doubt, such delay on the part of defendants caused inconvenience to the plaintiff and it needs to be compensate by imposing cost on defendants. Thus, as a result I proceed to pass following order.

ORDER

1. Application is allowed subject to cost of Rs.500/- to be paid to the plaintiff on or before next date.
2. Defendants are permitted to file their say on compliance of clause no.1.

Date: 15/03/2023

(Avinash W. Kshirsagar)
Civil Judge Junior Division,
Dondaicha.

- Certificate -

I certify that the contents of this PDF File are word to word as per Original Judgment / Order.

Name of the Steno: B. N. Thorat

Name of the Court: Civil Court Junior Division, Dondaicha.

PDF Uploading Date : 15/03/2023.

Sd/-
Stenographer (L.G.)