

ORDER BELOW EXHIBIT 27

This is an application by defendant No.2 and 3 seeking setting aside of order proceeding the present suit without their written statement.

02. It is the case of the defendants that, due to unavailability of necessary documents, they could not file their written statement within stipulated time. Hence, they prayed to set aside order proceeding the suit without their written statement.

03. Plaintiffs have strongly objected the application vide their say on backleaf of the application. It is contended on behalf of the plaintiffs that, the contents of the application are not true and correct. The present applicaiton is made to prolong the suit. The reason mentioned in the application is not justifiable. Hence, application is required to be rejected. They further submitted to impose heavy cost of Rs.5,000/- in case the application is allowed.

04. Perused the record and proceeding. Defendant No.2 appeared on 12.10.2022 vide Exh.No.22 and defendant No.3 appeared on 22.04.2022 and they failed in filing their written statement within the prescribed time limit, the suit was proceeded without their written statement by order dated 22.04.2022 and 12.10.2022 respectively. Thereafter, defendants have filed the present application on 17.02.2024.

05. It is submitted on behalf of the defendants that due to unavailability of important documents needed for filing written statement, they could not present their written statement within time limit. From the perusal of plaint, it appears that the nature of the suit

deems it necessary to bring forth documents which may need some time in their procurement. Hence, the reason provided by the defendants that they incurred some time in procuring important documents relating with the suit is condonable.

06. Moreover, it would be necessary to note that pleadings of both the parties in a suit play a major role in determining the real question of controversy between the parties. The written statement of the defendants would serve the purpose of their defence and if it is not considered, it would deny them to contest the suit on merits. Therefore, in order to adjudicate the suit on merits the delay could be condoned and the defendants deserve a second chance.

07. However, due to the lapse of time, the plaintiffs have suffered inconvenience. The state machinery also had to expend more on litigation. Now due to the inactivity of the defendants, the stages have to be revised. Hence, this inconvenience shall be compensated by imposing costs on them. Hence, I proceed to pass the following order:

ORDER

- 1.** The application at **Exh.27** is allowed subject to cost of **Rs.1,000/- (One Thousand Rupees Only)** to be paid by the defendants collectively to the plaintiffs collectively. The cost shall be paid by the defendants on or before next date, in case of failure the application will stand rejected.
- 2.** The written statement of the defendants shall only be taken on record only after compliance of clause (1) of this order.

CERTIFICATE

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

Name of the Steno : M. M. More
Name of the Court : Jt. C.J.J.D. & J.M.F.C., Shirpur.
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