

ORDER BELOW EXH.20 IN RCS No. 179/2017

(Ravindra..Vs..Subhash)

By way of instant application Adv. B.D.Deshpand for defendant no.1 is praying for setting aside no written statement order against him on the ground that, present defendant is old aged person, he suffers from medical ailments and at the relevant time he was admitted in hospital and therefore, he could not submit W.S. in time. In spite of sufficient opportunity plaintiff failed to file his say to the instant application.

02. Record shows that instant suit is for declaration of ownership and injunction. Defendants were appeared in suit but failed to file W.S. and therefore, on 11.06.2018 No.W.S. order was come to be passed against them. It appears that, by not submitting say to the instant application plaintiff has impliedly not opposed instant application. Therefore, grounds for not filing W.S. in time appears to be cogent and reliable. Besides, considering nature of suit valuable right of defendant is involved therein. Further, present defendant has filed written statement along with instant application which shows his willingness to participate in trial. Therefore, in order to have meritorious decision contest of defendant is must. On the other hand, inconvenience caused to other side can be compensated by imposing certain costs. Therefore, in view of order 8 rule 10 of CPC, No W.S. order against defendant no. 1 dated 11/06/2018 is set aside subject to costs of Rs. 300/- payable to other side.

Date-27/03/2019.
Bhokardan.

Sd/-xxx
(Y. S. Akhare)
Civil Judge Junior Division
Bhokardan.