



**Order below Exh. 17 in**  
**Special Civil Suit No. 22 / 2022**  
**CNR Number is MHKO050007482022**  
**(Passed on 02.02.2023)**

The defendants No. 1 and 2 prayed for setting aside “No W.S.” Order. According to them, the plaintiffs have filed suit for possession of suit property and they are appeared in the matter on 08-06-2022. But in the meantime, the defendant No. 1 was suffering from brain hemorrhage and operated in the hospital of Dr. Prabhu at Kolhapur. The defendant No. 2 is the wife of the defendant No. 1, therefore, but obviously, she was with defendant No. 1. Therefore, they could not possible to collect the necessary documents and meet their lawyer to provide necessary information to file written statement on record. They further submitted that, 'No W.S.' order was passed on 08-09-2022.

02. They further submitted that, if the application is allowed, then no harm or loss will be caused to other side. On the contrary, it will be helpful to adjudicate the matter on merit. There is no deliberate delay on the part of the defendants. Therefore, prayed for permission to file W.S. by setting aside 'No W.S.' order passed by this Court.

03. The plaintiffs have objected the application by filing say at Exh. 18 by contending that, contents of application are totally false and incorrect. The defendants are trying to prolong the matter. They further denied the fact that, the defendant No. 1 was suffering from brain hemorrhage and operated in the hospital of Dr. Prabhu at Kolhapur. The defendants are not mentioned which documents were

to be collected for filing written statement on record. The defendants were deliberately avoided to file written statement on record within stipulated time. Reasons mentioned in the application are not just and proper. They further submitted that, if court comes to the conclusion to allow the application, then heavy cost may kindly be imposed on them.

04. Heard both sides at length.

05. Considering entire facts and circumstances, I am of the view that, the delay occurred in filing W.S. can be condoned in the interest of justice. It is true that, the delay has been occurred. But considering the grounds behind that, an opportunity can be granted to file W.S.. Definitely some cost is required to be granted. Hence, I pass the following order :-

**ORDER**

1. Application (Exh.17) stands allowed subject to costs of Rs. 500/-, the same to be paid to the other side.
2. Parties to take note.

Date : 02.02.2023

(B. T. Yengade)  
Jt. Civil Judge Senior Division,  
Ichalkaranji