



R.C.S. No.252/2022.

Umesh V/s. Achana.

Order passed below Application Exhibit – 11.

(1) By filing present Appln., the Ld.Adv. for the Deft/s prays that, specific “No WS Order” is not passed however, as time has been elapsed notional “No WS Order” be set aside and they be permitted to place on record the WS. Main thrust of his argument is that, Deft/s are not at fault for the time consumed. He further argued that if permission, as sought is granted, without any delay, the Deft/s are ready to place on record the WS and no prejudice would be caused to the Opposite Side, if application is allowed.

(2) *Per contra*, opposite side opposed the appln. Main thrust of her argument is (i) delay (ii) intentional delay (iii) conduct of the Deft/s to protract the *lis.*(iv) non mention of plausible reason (v) adverse affect on their rights (vi) the Deft/s are trying to linger the matter.

(3) If permission, as sought is granted, no prejudice would be caused to the Plaintiff; on the contrary, if WS is placed on record, said aspect definitely help the court to arrive at right conclusion and to render the just decision. In an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. No doubt the litigation like of present needs expeditious and early disposal; still for complete and effective adjudication, opportunity needs to be be given to the party, who is supposed to suffer thereby. Our laws of procedure are grounded on a principle of natural justice which

requires that no one should be condemned unheard and that he should not be precluded from participating in the cause. As regards the delay, it can be taken care by imposing certain costs. Hence, in the interest of justice, I pass the following order :-

ORDER

(1) No WS Order is set Aside. Appln. is allowed subject to costs of Rs.500/- payable to the Plaintiff, with following conditions :-

- (a) Payment of costs as imposed shall be condition precedent to exhibit the WS. Same be deposited in the Court.
- (b) If costs, as imposed is not deposited, this order shall stands cancelled, automatically.
- (c) to withdraw the costs, it would not be necessary to obtain any order from this Court. The Registry shall not insist therefor.
- (d) If have mutual consensus, costs as imposed to pay directly, who acknowledge the same.

(Ganesh A. Ghule)
3rd Joint Civil Judge, (Jr.Divn.)
Ichalkaranji.
JO Code : 2594.

Date : 16-02-2022.