

MHKO050037992021



Anjana Khandu Bhandare
Vs.
Dhondiram Shiva alais Shivaji Bhandare &
Ors.

RCS No. 273/2021

ORDER BELOW EXH.36

The present application has been made by the defendant nos. 1,6,7,8,9 and 10 for setting aside 'No WS' order passed against them on 25/11/2022. The application is made on 26/09/2023. The plaintiff filed his say at Exh.37.

02. Perused the application and heard the parties.

03. Ld. Advocate for the defendant submitted that the defendant's are illiterate people and could not give necessary information for filing written statement within limitation. Considering this they be given fair opportunity to contest the present suit. Hence, it is prayed that to ensure fair trial, the application be allowed.

04. Plaintiff in his say submitted that the delay of 1 years 7 month's caused for filing WS on record by the defendant's. Moreover, reasons mentioned for delay are not plausible. He further submitted that WS of defendant no.8 cannot be taken on record, as 'ex-parte' order has been passed against him below Exh.1. It is prayed that the application be rejected and cost of Rs.1000/- be imposed on each of the defendant.

05. Perused the application, record, say file to it and considered the submissions made. On perusal of the record it appears that 'ex-parte' order has been passed below Exh.1 against defendant no.8. Therefore, without complying with the necessary provisions, his WS cannot be taken on record. As far as WS of other defendant's are concerned, in order to ensure fair trial and equal opportunity to the defendant to contest the suit on merit, it would be appropriate to

allow them to file their say. However, hardship/inconvenience caused to the plaintiff due to delay cannot be ignored. In my view it could be compensated by imposing appropriate cost. Hence, the following order;

ORDER

- 1) The application at Exh.36 is allowed.
- 2) 'No WS' Order passed against defendant nos. 1,6,7,9 and 10 is set-aside, subject to payment of cost of Rs.200/- each to the plaintiff on next date.

Date: 22/08/2025.
Place: Ichalkaranji.

Sd/-
(M.S. Gawade)
5th Jt. Civil Judge Junior Division,
Ichalkaranji.