

Order passed below Exh. 34

This is an application by defendant No. 7 & 8 for setting aside 'No written statement' order dated 19/10/2017.

2. Read the application. Say not filed. Hence application is taken for consideration.

3. Perused the case record. It reveals that defendant no. 7 & 8 have appeared but did not file their written statement within time as provided in Order 8 Rule 1 of the Code of Civil Procedure. Therefore no written statement order has been passed on 19/10/2017. Each days delay is not explained in the application. However, it is stated that, due to old age of defendant no. 7 he could not appear so also defendant no. 8 is woman she could not contact her Advocate. So also, the defendants could not obtained necessary documents from concerned office. The suit is for injunction therefore it is necessary to consider the rival pleadings to decide the fact in issue. Considering the reasons, it would be just and proper to allow defendant no. 7 & 8 to participate in the suit. Here it would be just and proper to mention that, in case of **Municipal Council, Hinganghat, Dist. Wardha V/s. Sudhirkumar Krushnakumar Sahani reported in 2010(3) Mah. L.J. Page No. 948 Bom. H.C. (Nagpur Bench)** it has been held that, "Outer after limit for filing written statement is 90 days from the date of service of summons but where sufficient ground and reasons are shown the application though filed belatedly and casually, deserves to be allowed." In the circumstances and considering nature the suit as well as considering grievances put by the plaintiff, I pass following order.

ORDER

- 1) No Written Statement order dated 19/10/2017 passed below Exh. 1 against defendant No. 7 & 8 is set aside subject to cost of Rs. 500/-
- 2) Written Statement of defendant no. 7 & 8 be taken on record after payment of cost.
- 3) C.O.A.

Date 11/07/2019
Place : Gadhinglaj

(M.T. Kharade)
2nd Jt. Civil Judge Jr. Division
Gadhinglaj