

ORDER PASSED BELOW EXHIBIT NO.40

IN R.C.S. NO.142/2014

01. The defendant No.3 has filed instant application for setting aside “no written statement order” passed dated 28.11.2014 below Exhibit No.1 and thereby prayed for grant of permission to file his written statement on record.

02. By this application, the defendant No.3 has contended that the defendant has not deliberately avoid to file his written statement. He further stated that he has filed his say on Exh. 7 after service of suit summons. However, inadvertently, he has not filed his written statement within time. Therefore, the learned advocate for the defendant could not prepare written statement within time and therefore, written statement is not filed within time. Consequently, the aforesaid order of no written statement is came to be passed against him. The instant application is supported by an affidavit.

03. The plaintiff has filed his say on same application. The plaintiff has strongly resists instant application on the ground of defendants have not filed any specific reason for delay caused. The reasons mentioned in this application are false and frivolous. The plaintiff further contended that present defendant has deliberately filed this application at belated stage. However, he alternatively contended that if this Court will come on conclusion to allow this application then heavy cost must saddle on present defendant. Hence, finally plaintiff pray for rejection of application and alternatively pray for grant of

application on cost.

04. On perusal of record, it transpires that after service of suit summons, the said defendant appeared through his advocate on 12.02.2015. Thereafter sufficient opportunities has been given to him to file his written statement on record. On failure to file written statement, aforesaid order is came to be passed against him. However, inadvertently, he has not filed his written statement within time. Thus, considering the reasons stated in the application and for proper adjudication of the matter, I am of the considered view that an opportunity to contest the instant suit needs to be given to the defendant. Hence, I proceed to pass the following order.

-: ORDER :-

1. Application Exhibit 40 is allowed and “no written statement order” passed below Exhibit 1 against the defendant is hereby set aside subject to cost of Rupees 500/- (Rs. Five hundred only) to be paid to the plaintiff on or before next date and he is permitted to file his written statement on record.

Sd/-

(S.M.Jadhav)

2nd Jt. Civil Judge, Junior
Division, Peth-Vadgaon.

Date. 16.11.2017.

CERTIFICATE.

I affirm that the contents of this P.D.F. file Judgment/Order are same, word to word, as per the original Judgment/Order.

Name of the Stenographer	Mrs. Rajashri Rajendra Sawant (L.G.).
Name of Court	Shri.S.M.Jadhav 2 nd Jt. Civil Court & J.M.F.C. Peth-Vadgaon.
Date of Dictation	16/11/17
Judgment signed by the P.O. on	16/11/17
Judgment uploaded on	17/11/17