

MHKO110007212021



Reg.Civil Suit No.85/2021

(CNR No.MHKO110007212021)

Order below Exh.29

01. Defendant No. 1 and 2 made the present application with the prayer to set aside 'No W.S.' order dated 16/09/2021. They further submitted that, they made an application to the concerned land record department for carrying out the measurement of their land. As per their application measurement was carried out, but delay caused to get 'C' copy of the concerned measurement map. So they could not file their written statement within statutory period of limitation. In result 'No W.S.' order was passed against them. They further submitted that, they filed their say to the application vide Exh.5, so it could not be say that, they intentionally avoiding to file their written statement. They finally submitted to set aside 'No W.S.' order and permit them to file their written statement.

02. Plaintiff filed his say on the leaf of application and submitted that, in spite of giving sufficient opportunity to the defendant No.1 and 2, they failed to file their written statement. So 'No W.S.' order was passed against them. They finally submitted that, if the Court allowed the application, impose costs of Rs.5,000/-.

03. Perused the application and say thereon. Heard to both sides. Defendant No.1 filed his affidavit in support of application.

04. Considering the nature of the suit and the relief claimed against the present defendants, it is necessary to have on record the written statement of defendant No.1 and 2. So it is in the interest of justice to give an opportunity to defendant No.1 and 2 to present their side by filing their written statement. To finally decide the issues involved in the suit, it is also necessary to give an opportunity to defendant No.1 and 2 to present their side. For that purpose, it will be in the interest of justice to set aside 'No W.S.' order. At the same time it will be in the interest of justice to impose costs upon defendant No.1 and 2 to compensate the hardship caused to the plaintiff due to non filing of written statement of defendant No.1 and 2 within stipulated time. Hence considering above discussion I proceed to pass following order.

ORDER

- 1) The application below **Exh.29** is hereby allowed.
- 2) 'No W.S.' order dated 16/09/2021 passed against defendant No.1 and 2 is hereby set aside subject to costs of Rs.500/- [Rs. Five Hundred] each, it be paid to the plaintiff.
- 3) The written statement filed by the defendant No.1 and 2 be taken on record after the payment of costs.
- 4) The application below **Exh.29** is disposed off accordingly.

Date : 17/02/2023

(**L.M. Pathan**)
Civil Judge Junior Division,
Peth-Vadgaon