

Order below Exh.45

1. The defendant has filed this application for setting aside 'No Additional W.S.' order' dated 07/06/2019. The Ld. Counsel for the defendant has submitted that, additional written statement was under typing and therefore cannot file it on record on 07/06/2019 till 12.30 a.m., accordingly 'No Additional W.S.' order was passed against the defendant. He further submitted that, if the opportunity of filing additional W.S. and say is not granted to the defendant, irreparable loss will be sustained to him. Hence considering the reason and in the interest of justice, he prayed for setting aside 'No Additional W.S.' order dated 07/06/2019.

2. The say of plaintiffs was called. The plaintiffs have filed their say at **Exh.46** and strongly objected the application by stating that, the contentions made in the application are false, frivolous, concocted, vexatious, hyperbolic etc. In short the Ld. Counsel for the plaintiffs submitted that, the reason mentioned in the application is not just and proper for setting aside 'No Additional W.S.' order. Hence he prayed to reject the application.

3. Heard. Perused the record and documents. On perusal it reveals that, the plaintiffs have filed amended plaint on 02/11/2018. Thereafter the defendant has not filed his additional written statement till 07/06/2019. It seen that, sufficient opportunities have been granted to the defendant for filing his additional written statement. However he failed to file it on record within stipulated time.

4. As the suit is filed for perpetual injunction against the defendant, the matter needs to be decided on merits and for that purpose, it is necessary to give an opportunity to the defendant for filing his additional written statement. On the other hand, the plaintiffs needs to be compensated by imposing costs on the defendant. Hence I pass the following order.

ORDER

- 1) The application is hereby allowed.
- 2) 'No Additional W.S.' order dated 07/06/2019 passed against the defendant is hereby set aside subject to costs of Rs.300/-, it be paid to the plaintiffs.
- 3) The defendant is hereby permitted to file his additional written statement on record .
- 4) The written statement filed by the defendant be taken on record after the payment of costs.

Date : 30/07/2019

(J. S. Gaikwad)
Jt. Civil Judge Jr.Dn., Peth-Vadgaon

I affirm that, the contents of the P.D.F. file order are same, word to word, as per the original order.

Name of the Stenographer	Sou.K.S.Gaikwad
Name of the Court	J. S. Gaikwad, Jt. Civil Judge Junior Division, Peth-Vadgaon
Date of Dictation	30/07/2019
Order signed by the P.O. on	30/07/2019
Order uploaded on	31/07/2019