



Order Below Exh. 33 In RCS No. 140/2020

CNR No. :- MHKO110015352020

Passed On 16/01/2023

1. Defendant No. 9 to 12 have filed this application to set aside no written statement and no say order, it is contended that, some required documents are not found within time. Hence, defendant No. 9 to 12 could not file their WS and say within stipulated period. Therefore, their right to file WS and say is extinguished.
2. Plaintiff have filed their say and contended that, all the contents in this application are false. Defendant No. 9 to 12 have deliberately not file their written statement due to prolong the matter. Hence, application be rejected.
3. Perused the application, say and record of the case. Heard both the sides.
4. No doubt to say that, though reason mentioned in the application is vague to some extent. In my opinion to decide the matter on merit and in the interest of justice it is necessary to hear the both sides. Further considering the object and purpose behind enacting Rule 1 of Order 8 of The Code of Civil Procedure as amended by Act 22 of 2002 the provision has to be construed as directory and not mandatory. Further to avoid grave injustice to the defendants, they shall be permitted to file their written statement and say even after expiry of stipulated period. However, negligence on the part of the defendants cannot be overlooked. It can be compensated by

(2)

imposing cost on them. Hence, I am of the view that cost of ₹500/- may compensate to the defendant No. 9 to 12 for inconvenience. Hence, I pass following order.

ORDER

1. Application below Exh.33 is allowed and No W.S. and no stay order is set aside. The written statement filed by the defendant No. 9 to 12 be read & recorded on payment of cost of ₹500/- to the plaintiff on or before next date.

Date : 16/01/2023
Peth-Vadgaon.

(S. D. Sonawane)
Jt. Civil Judge Junior Division,
Peth-Vadgaon.