



**Common Order Below Exh. 41, 44 and 46**

**In RCS No. 232/2022**

**CNR No. :- MHKO110018052022**

**Passed On 07/08/2023**

1. Defendant No. 1 to 6 and 8 have filed these applications for set aside no written statement and set aside ex parte order, it is the contention in the application that, relevant required documents could not be obtained within time from tenancy court. Hence, defendant No. 1 to 6 could not file their WS within stipulated period. Therefore, their right to file WS is extinguished. Further, ex parte order is passed against defendant No. 8.
2. Plaintiffs have filed his say at Exh. 48, 49 and 50 and contended that, all the contents in this application are false, summons were served on 20/12/2022 these defendants and sufficient reason is not mentioned in this application. Defendants have deliberately not file their written statement due to prolong the matter. Sufficient time has been given to these defendants. Hence, applications 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,

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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 imposing cost on them. Hence, I pass following order.

**ORDER**

1. Application below Exh. 41, 44 and 46 are allowed and No W.S., order passed against defendant No. 1 to 6 is set aside. Ex-parte order passed against defendant No. 8 is set aside. The written statement filed by the defendant No. 1 to 6 and 8 be read & recorded on payment of cost of ₹300/- each and to be paid to the plaintiff on or before next date.

**Date : 07/08/2023**  
**Peth-Vadgaon.**

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