

R.C.S. No.17/2015.
Vishal & Ors. Vs. Robert & Ors..
MHKO150000932015.

ORDER BELOW EXH- 97.

Defendant no.5 has filed this application for setting aside no W. S. order pass against him. It is contention of defendant that, after arraying as a defendant no.5 present proceeding he ought to filed his W. S. However, due to old age and medical condition of his mother he could not able to contact with his counsel to file W. S. within time. Meanwhile, on 09.02.2025 his mother passed away. In such conditions he could not able to collect material document and contact to his counsel. In result no W. S. order was passed against him. The delay caused by him is not intentional. No prejudice would be caused to the plaintiffs, if his application allowed. Per contra, if it rejected he will suffer irreparable loss and in result fair opportunity denied to him. Thus, prayed to allow application.

2. Counsel for plaintiff endorsed his say at the last page of an application and strongly opposed. He contended that, the reasons sought by defendant is false and baseless. Therefore, present application deserved to be rejected with cost.

3. Heard both counsels. They argue in verbatim of their application and say. Counsel for defendant submitted that, immovable properties were involved in present suit. Due to sudden loss of mother of defendant, he could not able to filed his W. S. within time. No prejudice would be caused to plaintiffs if his application allowed. Counsel for plaintiffs prayed to pass appropriate order.

4. Present suit is for perpetual injunction. Defendant having sanguine hope of success and right to contest the suit. The reason sought by defendant is not denied by plaintiffs. Defendant along with this application filed copy of his W. S. on record. The W. S. of defendant is just for the final decision of suit. No prejudice would be caused to the plaintiffs if application allowed. Thus, in result of above discussion in the interest of justice, I pass following order,

ORDER

1. Application is allowed, no order to cost.
2. W. S. of defendant be R & R.
3. Parties to take note and proceed further.

Place- Ajara.
Date- 29.04.2025.

(R. P Thore)
J.O.Code No.MH02897
Civil Judge, Junior Division,
Ajara.

