



MHKO150001302023

R.C.S. No. 17/2023.  
Suraj Vs. Dnyandev.

**ORDER BELOW EXH- 32.**

Defendant no. 3 has filed this application for setting aside no W.S. order pass against him. It is contention of defendant that, after service of suit summons he appeared in proceeding. However, due to lack of legal knowledge, he failed to contact with his council and unable to file his written statement within time. Meanwhile, in his absence after hearing of other parties order passed below Exh. 5. The delay caused to him to file his W.S. is not intentional. He has filed copy of his W.S. along with this application. If his application allowed, no prejudice would be caused to the plaintiff. Thus, to avoide his further loss prayed to allow application.

2. Plaintiff has strongly opposed the application and contended that, the reasons given in the application are false and baseless. Thus, prayed to reject the application.

3. Admittedly, suit summon was duly served to the defendant. As per record, he appeared present proceeding on 12.04.2023. However, till today he could not file his W.S. Further, as per record on 30.08.2023, no W.S. order was passed against this defendant. Now today defendant filed present application. There is almost delay of more than one year to file W.S. Since, appearance of defendant.

4. It is contended by defendant that, due to lack of legal knowledge he could not contact with council and filed W.S. within time. On

minutely perused record, it shows that, on 30.08.2023 defendant is represented by advocate vide Exh. 26. However, even on that day, defendant has not filed his W.S. The reasons sought by defendant is seems filmy. The conduct of defendant is contrary to his submission.

5. Present suit is for perpetual injunction. Valuable property rights of both parties are involved in it. For that, every opportunity of fair trial need to be given to defendant. However, at the same time the delay caused to the proceeding by defendant need to be consider. Obviously, the delay could not compensated in terms of money. However, the conduct of defendant constrained to impose cost over him. Thus, in the interest of justice considering the principle of natural justice, I pass following order,

**ORDER**

1. Application is allowed subject to cost of Rs. 500/- paid to the plaintiff.
2. W.S. filed by defendant no. 3 is accepted after compliance of order.
3. Defendant to comply order on or before next date. The failure of defendant to comply order stand vacated.
4. Parties to take note.

Place- Ajara.  
Date- 18.06.2024.

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