

ORDER BELOW EXH- 26.

Defendant no.1 has filed this application for setting aside no W. S. order pass against her. It is contention of defendant that, she has appointed advocate Shri. S. V. Powar to conduct the matter. However, due to brain stroke he is not able to proceed and therefore no W. S. order was passed against her. She has filed W. S. in another suit pending before this court. For defending her right, she prayed to allow her application.

2. Advocate for plaintiffs endorsed his say and contended that, the reason sought by this defendant is not justifiable. If this court intend to allow this application, prayed to impose cost of Rs. 5,000/-.

3. Heard both counsels. They argue in verbatim of their application and say. With the help of counsels I have gone through record. As per record, present defendant appeared in present proceeding on 18.11.2022 through advocate Shri. S. V. Powar. Due to her failure to file W. S. no W. S. order was passed against her on 31.07.2023. Thereafter, suit is posted for plaintiff's evidence. However, till today plaintiffs have not filed their evidence on record.


4. Present defendant in this application nowhere pleaded about the exact delay to file her W. S. Plaintiffs not seriously opposed the application. The reason sought by defendant is seems to be justifiable as advocate Shri. S. V. Powar due to his medical reason not attending other matters before this court. Therefore, this defendant deserved

one more opportunity to contest the suit. Defendant along with this application filed by copy of W. S. on record. The W. S. of defendant is just for the final decision of suit. No prejudice would be caused to the plaintiff, if his application allowed. Per contra, if this application rejected it will be treated as denial of natural justice. Hence, considering above discussion and short age of proceeding application deserved to be allowed without imposing cost. Hence, result of above discussion, I pass following order,

ORDER

1. Application is allowed, no order to cost.
2. W. S. of defendant be R & R as Exh.27.
3. Parties to take note and proceed with suit.

Place- Ajara.
Date- 24.03.2025.

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