

ORDER BELOW EXH- 30.

Perused application and say. Heard counsel for both sides while filing an application and say. Defendant no.2 has filed this application for setting aside no W. S. order pass against him. Defendant sought reason of his transferable job and medical illness of his father along with compromise talk with plaintiff for his delay. However, plaintiffs through their say denied the same. Further, defendant no. 2 has not filed single document on record to support his contention.

2. This is suit for cancellation of sale deed. Valuable property rights of defendants involved in it. On perusing record it shows that, on 09.01.2023 this defendant appeared in proceeding. But, failed to file his W. S. Hence, on 31.07.2023 my Ld. Predecessor has passed no W. S. order against this defendant. Further, defendant did not sought exact delay cause by him. As per record this defendant ought to filed his W. S. on or before 08.02.2023. However, he has filed his application today. It shows that, He has caused more than 3 years delay.

3. The W. S. of defendant is just for the final decision of suit. However, defendant remain silent on his right and avail it after three years. It shows that, he is not diligent to avail his right. Defendant has filed copy of his W. S. with this application. Considering nature of proceeding for deciding suit on merit no prejudice would be caused to the plaintiff, if application allowed. Plaintiff strongly opposed and prayed to impose heavy cost of Rs. 5,000/- if court intend to allow.

4. Though defendant no. 2 not contended exact delay to file his W. S.

However, in the interest of justice the delay caused to file W. S. to be condoned by imposing some cost. Further, plaintiff is not diligent to proceed with suit and failed to adduce evidence. Due to his failure today an adjournment application filed by plaintiff has been rejected and suit posted for dismissal order. Hence, this court did not find any ground to award cost amount to plaintiff. In result of above discussion this court has pass following order,

ORDER

1. Application stands allowed, subject to cost of Rs. 2,500/- paid to Legal Aid, Ajara.
2. After compliance of an Order W. S. of defendant no. 2 be R & R.
3. Defendant no. 2 to take note and comply order accordingly.

Place- Ajara.
Date- 16.03.2026.

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