


<p>MHKO160002692022</p> 	<p><u>Order below Exh. 85 in R.C.S.No.48/2015</u></p>
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1. The defendant No.7 has filed this application for setting-aside no W.S. order passed against him. According to the defendant, due to illiteracy, he has no knowledge of law. He could not get old document of the suit. His W.S. is important to decide the suit on merits. He has rights in the suit property. The delay is not intentional. If defendant have not file their W.S. and say, he will suffer irreparable loss. Hence, he prays that No W.S. order passed against him may kindly be set-aside.

2. Plaintiffs objected to the application stating that the defendant has filed this application after 7 years of filing of suit. This application is filed to prolong the suit. He prayed to grant application subject to heavy cost of Rs.10,000/-.

3. Heard learned advocates of both the parties, perused the documents on record. After hearing both the parties, this court finds that due to illiteracy, he could not get old documents of the suit. His written statement is important to decide the suit on merit. In one suit all the issues of the parties must be decided. No prejudice would cause the plaintiff if this application is allowed subject to heavy cost. The suit is for partition. Therefore no W.S. order needs to be set aside subject to heavy cost because 7 years delay has been caused. Considering all the facts, this court finds to grant this application. Hence, following order -

ORDER

1. Application Exh. 85 is allowed.
2. The no W.S. order passed against defendant No.7 is hereby set-aside subject to cost of Rs.700/- to the plaintiff till next date.
3. After payment of the cost, the W.S. will be read and recorded.

Shahuwadi
Date : 25/07/2022

(Amol Shriram Shinde)
Civil Judge, Jr. Division,
Malkapur-Shahuwadi.