


MHKO160002802023 	<p style="text-align: center;"><u>Order below Exh.40 in</u> <u>R.C.S.No.39/2023</u></p>
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1. The defendant No. 1 has filed this application for setting-aside no W.S. order passed against him. It is submitted by defendant that he resides at Mumbai and do not have legal technical knowledge, and he not able to collect information regarding the suit from his old learned advocate in time, and, the delay caused to file his W.S. The delay is not intentional. He will suffer irreparable loss if this application is not allowed. Hence, he pray for setting-aside no W.S. order passed against him.

2. Plaintiff given their say below this application and submitted that suit summons served on defendant No.1 on 28/03/2023 and exparty order is passed against him. Defendant has not given any specific reason for the delay and he has intentionally caused delay to file his W.S. Defendant has not given any evidence about his pleading. Finally prayed to reject the application.

3. Heard both the learned advocates and perused all documents on record. No W.S. order is passed against defendant Nos. 1 on 08/07/2024. It is submitted by defendant that he resides at Mumbai and due to technical reason he unable to file his W.S. in time. On the other hand, plaintiff opposed the application and submitted that the delay is not properly explained and lastly prayed to reject the application. Defendant has not filed anything on record about their

pleading for the said delay. The reasons put forth by defendant are not satisfactory. Even though, the reasons for non filing of W.S. within time are not satisfactorily explained; for the purpose of final determination of dispute between the parties and to decide the case on merit, defendant needs to be given an opportunity to defend his case. At the same time, the delay caused by the defendant needs to be taken into account. Plaintiff prayed to reject the application, but, no prejudice will be caused to the plaintiff if this application is allowed with appropriate cost. The suit needs to be decided on merit to resolve all the disputes between both the parties. Considering all the facts, this court finds to grant this application on appropriate cost. Hence, following order -

ORDER

1. Application Exh.40 is allowed.
2. No W.S. order passed against defendant No. 1 hereby set-aside subject to cost of Rs.2,000/- to the plaintiff till next date.
3. After payment of the cost, the W.S. of defendant No. 1 will be read and recorded.

Shahuwadi
Date : 06/04/2026

(P. B. Pawar)
Civil Judge, Jr. Division,
Malkapur-Shahuwadi.