

R.C.S. No. 63/2017
CNR No. : MHKO19-000204-2017

Order at Exh. 9

Vide this application defendants have prayed for setting aside the “ No Written Statement” order dated 28/07/2017, passed at Exh. 1.

As per defendants, defendants 1 is head of the family. Defendants 1 is aged person and was he ill. Thus defendants 2 and 3 were engaged with work to take care of defendants 1. Consequently, defendants could not meet and instruct their advocate in order to enable him to draft and file written statement of defendants on record in time. Consequently, “No Written statement” order is passed against defendants at Exh. 1.

Vide their say at Exh. 11 plaintiffs have strongly combated the application. They contend that the content of the instant application is false. The ground cited by defendants is not supported by medical certificate. The application is made with sole intent to delay the proceeding. Ultimately they have prayed for rejection of the application.

Heard both sides. Perused record. The suit is for relief of permanent injunction. Defendants have not produced on record any document to support their contention pertaining to the illness of defendants 1. However, present application is supported by the affidavit of defendants. Further, it is needless to mention that in order to decide the dispute between the parties on merits it is necessary to give an opportunity of being heard to defendants. Consequently liberal view can be taken while deciding instant application. As far as contentions pertaining to delay is concerned, the delay can be compensated by way of costs. Hence, following order:

ORDER

Application is allowed subject to cost of Rs. 400/-. Out of total cost, an amount of Rs. 200/- be paid to the Plaintiffs and the balance amount be deposited in legal aid account.

Date : 06/02/2018
Radhanagari,

Civil Judge Jr. Div.
Radhanagari

I Affirm that, the contents of this P.D.F. file Judgment are same, word to word, as per the original Judgment.

Name of the Stenographer	U.S.Telang
Name of Court	Civil Judge, Junior Division & Judicial Magistrate, First Class, Radhanagari.
Date of Dictation	05/02/2018
Judgment signed by the P.O. On	05/02/2018
Judgment uploaded on	12/02/2018