

MHKO200000752022



R.C.S.No.20/2022 ORDER PASSED
BELOW EXH.21

Dilip Vishnupant Patil Vs. Ravindra
Sadashiv Kamble

The defendant has filed the present application for setting aside 'No W.S.' order passed against him. According to him, as the documents were not received in time, he could not file his written statement and say within time. Hence, he prayed to allow the present application.

02. The application is strongly opposed by the plaintiff on the ground that, the reasons given in the application are incorrect, hence, he prayed for rejection of present application. He contended that, if this Court thinks fit to allow the application then cost of Rs.10,000/- be imposed on the defendant.

03. Perused the application and say. After going through the record it reveals that, the summons was served on defendant on 02.03.2022. It was expected from him that he should have filed his written statement on or before 31.05.2022. The delay for filing the present application is near about more than 2 years.

04. Order VIII Rule 1 of the Civil Procedure Code, 1908 is directory and not mandatory. In order to decide the suit on merit the written statement of the defendant is necessary. If permission is granted to defendant for filing his written statement no serious prejudice will be caused to other side, on the contrary it will be helpful to decide the suit on merit. If any inconvenience is caused to

plaintiffs, it can be compensated by imposing costs on defendant.
Hence, following order :-

ORDER

01. The application is allowed.
02. The “No W.S.” order passed against defendant is set aside.
03. The defendant is permitted to file his written statement on payment of cost of Rs. 500/- to the plaintiff.

Date :- 19/11/2024.

(H.M.Patel)
Ext.Jt.Civil Judge Junior Division,
Kale(Kheriwade).