

MHLA110005302023



Order below Exh.10 in Spl.CS No.33/2023

Vimalbai Vs. Narsing & Ors.

By this application defendants have requested to set aside the no WS order passed against them on the grounds stated in the application. Plaintiff has filed her say and raised strong objections. Perused application and say. Heard both the sides. Both of them have submitted in the line of their application and say respectively. Record shows that plaintiff has filed this suit for maintenance. Defendants had appeared through their counsel on 12/09/2023 vide **Exh.6**. They sought adjournment for filing WS/say on that date only and on 17/10/2023 as they failed to seek adjournment or file WS, the impugned order came to be passed. Plaintiff adduced her evidence vide **Exh.9** on 28/11/2023, which means the trial has been commenced. This application is filed today i.e. approximately after more than five months of passing the impugned order. Let it be so. Considering the nature of suit, grounds stated in the application, rights of the parties involved and the loss which can be caused if the application is rejected, in my opinion, it is desirable that defendants be permitted to file their WS. However, while doing so, the delay of approximately more than five months caused by defendants and the fact that plaintiff is a destitute lady claiming maintenance from her husband and others cannot be neglected and for that purpose it is necessary to saddle cost upon them. Hence, I pass following order:-

ORDER

1. No WS order dated 17/10/2023 passed against defendants is hereby set aside subject to cost of Rs.350/- each to be payable by them to plaintiff on or before next date.
2. After payment of cost amount and its acknowledgment by plaintiff, the WS/say filed by defendants be taken on record.

Date : 11/03/2024

(Ashish B. Marlecha)
Civil Judge (Sr.Dn.),
Nilanga, Dist. Latur.