

:: Order passed below Exh. 47 in R.C.S. No. 02/2016 ::

01. By this application, the defendant No. 3 is contending that, on 15-12-2016 no written statement order came to be passed against him. He further contended that, he has not deposited the cost amount within stipulated time and therefore, such an order came to be passed against him. He has further contended that, the delay caused is not intentional. The suit relates to the immovable property and therefore, he will suffer loss. Accordingly, he has prayed for setting aside the no written statement order passed against him and allowing him to file his written statement.

02. The plaintiff by filing say on the overleaf of the application resisted the same. As per her contention, the application itself is not maintainable. She has further contended that, the no written statement order came to be passed against defendant No. 3 on 13-04-2016 and thereafter, it was set aside on 18-11-2016 subject to payment of cost. However, the defendant No. 3 has not deposited the cost amount within prescribed time and till date also. Accordingly, on 15-12-2016 the no written statement order again came to be passed below Exh. 01. As per her contention, this conduct of the defendant No. 3 shows intention to prolong the matter without sufficient reason. Accordingly, she has prayed for rejection of the application with cost.

03. Heard. Perused record. Perusal of record shows that, the present suit is filed on 11-01-2016. Further perusal of record shows that, the defendant No. 3 appeared on 25-01-2016. Record also reveals that, thereafter he has sought various adjournments for filing the written statement. However, the defendant No. 3 and other defendants failed to file their written statement and accordingly, on 13-04-2016 no written statement order came to be passed against them. Record further shows that, thereafter, on 02-05-2016 the defendant No. 3 by filing an application at Exh. 29 prayed for setting aside no written statement order passed against her. Further perusal of record shows that, as per order below Exh. 29 dated 18-11-2016 the application came to be allowed subject to cost of Rs. 500/-. However, thereafter, the defendant No. 3 failed to comply with cost condition and accordingly, on 15-12-2016 as per order

below Exh. 01 matter proceeded further without her written statement. It is also significant to note that, thereafter the plaintiff carried out amendment in her plaint and even the opportunity of filing additional written statement was given to all the defendants. However, neither the defendant No. 3 nor other defendants filed their additional written statement and accordingly, on 02-02-2017 necessary order came to be passed below Exh. 01. Thereafter, on 14-03-2017 this application is filed. It is also pertinent to note that, neither this application is supported by affidavit nor the contents of the application are verified.

04. This entire conduct of the defendant No. 3 appearing from record categorically shows that, the defendant No. 3 is not interested in conducting the matter diligently nor he is interested in following the orders of the Court. Even in this entire application no single reason is mentioned by the defendant No. 3 for non depositing the cost amount and filing his written statement on record within stipulated time. This entire conduct of the defendant No. 3 itself disentitles him from getting the relief sought. Consequently, the application stands rejected.

Sd/-

(D.P. Kasat)

Date : 17-04-2017.

Civil Judge Junior Division,

Deoni.

I affirm, the contents of P.D.F. file Order are correct word for word as per the original Order.

Name of the stenographer : M.Y. Wadiwale.
Name of Court : Civil Court J.D., Deoni.
Date : 17-04-2017.