

ORDER PASSED BELOW EXHIBIT NO.43.

The plaintiff has instituted the present suit for declaration, as well as consequential relief of Injunction.

(2) Within time stipulated, the Deft/s failed to file their WS hence, No WS order was passed against Defts. 1 to 3 on 1st September, 2015 and against Deft/s 4 and 5 on 19th November, 2016. Now, by filing present Application, it is the Deft. 1 and 2 who pray to permit him to place on record his WS by setting the earlier order.

Mr. Pandit, Advocate appearing for the Plff/s strongly opposed the application. Main thrust of his argument is (i) delay (ii) no plausible explanation is tendered (iii) tactic of the Deft/s to protract the litigation.

(3) Heard. Read. Law is highly allergic to procrastination but the provision of Order VIII Rule 1 of the Code, does not specifically take away the power of the court to take the written statement on record though filed beyond the time as provided for but for that there must be a plausible explanation as to why there is delay in filing the W.S.. No plausible explanation is tendered by Deft.No.3. Be that as it may be, but, according to me, the litigation like of present nature needs expeditious and early disposal. For complete and effective adjudication, opportunity of being heard must be given to the Deft/s. Our laws of procedure are grounded on a principle of natural justice which requires that no one should be condemned unheard and that he should not be precluded from participating in the cause. If request of the learned counsel for the Deft No.3 is accepted and he is permitted to place on record the WS, no prejudice would be caused to the Plaintiff. On the contrary, it would help the court to adjudicate the present controversy on its own merit. Considering that, in an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Hence, I am inclined to accept the prayer. but, considering that there is a delay, I am inclined to grant the application however, by imposing certain conditions :-

ORDER

- (1) Application is allowed.
- (2) No W.S. Order dated Dtd.1st September, 2015 is set aside subject to costs of Rs.500/- to be paid to Plaintiff. (Order is set aside only in respect of Deft/s 1 and 2.)
- (3) Payment of costs shall be condition precedent.
- (4) If costs, as imposed is paid, WS be marked with Exhibit Number; in other contingency, this order shall stands cancelled, automatically.

(Ganesh A. Ghule)
Joint Civil Judge, Jr.Divn.
Hadgaon.

Date : 23rd February, 2018.

प्रमाणपत्र

मी अशी खात्री देतो की, सदर पी.डी.एफ. फाईलमधील मजकुर मुळ न्यायानिर्णयाप्रमाणे / आदेशाप्रमाणे प्रत्येक शब्द बरोबर आहेत.

लिपिकाचे नाव - श्री. शेवंडकर

न्यायालयाचे नाव - सह दिवाणी न्यायाधीश क.स्तर व न्यायदंडाधिकारी वर्ग १, हदगांव.

आदेश दिनांक	: २३/०२/१८.
पिठासीन अधिका-यानी स्वाक्षरी केलेली तारीख	: २३/०२/१८.
आदेश/न्यायनिर्णय अपलोड केलेली तारीख	: २३/०२/१८.