

**R.C.S. No.07/2023**

**Hemandas -vs- Vaishali**

**ORDER BELOW EXH.12**  
**(Dated 03<sup>rd</sup> January, 2025)**

The defendant filed this application to set-aside no-W.S. order passed against her. The defendant contended that she served with suit summons on 24.02.2023 but she has no knowledge about the Court Proceedings. Due to her poor financial condition she could not contact with the advocate, thereafter, she moved an application to get free legal aid. Said application came to be allowed and Adv. Pradhan has been appointed through free legal aid services. Thereafter, her advocate verified the record and she came to know that on 14.03.2022, order to proceed the suit ex-parte came to be passed.

2. The plaintiff filed say and strongly opposed the application with submission that the defendant served with suit summons on 24.02.2023 and she appeared on 02.03.2023. The defendant failed to file her written statement on or before 24.03.2023. Thereafter, order passed on 14.03.2024 after the expiration of limitation for the filing of the written statement. The defendant deliberately filed this application so as to prolong the matter, there is a delay of 20 months. From the

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above facts and circumstances, it is clear that the defendant deliberately caused delay and filed written statement at the belated stage when the matter is posted for the evidence, hence, application is liable to be rejected.

3. Heard Learned Advocate for the plaintiff and defendant. Perused the record. It is admitted that the defendant served with suit summons on 24.02.2023 thereafter, she appeared before the Court but did not file her written statement, therefore, on 12.08.2024 she moved an application and prayed to get legal aid services. The said application came to be allowed and Smt. V.T. Choudhary, Advocate, appointed as Advocate for the defendant through legal aid services. Thereafter, the said application has been moved by the defendant. It is admitted that there is a delay to file the written statement and on 14.03.2024, the order has been passed to proceed the suit without written statement.

4. To decide the real controversy in the matter, the written statement of the defendant is necessary, but at the same time, the delay caused on the part of the defendant cannot be ignored. As considering the submission of the defendant and to decide the matter on merits, I pass following order :-

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## **ORDER**

1. Application Exh.12 is hereby allowed subject to cost of Rs.500/- (Rupees Five Hundred Only).
2. Order passed below Exh.01 on 14.03.2024 is hereby set-aside.
3. Cost is condition precedent to file written statement on record.

Parseoni.  
Date 03/01/2025

(G.O.Wankhade)  
Civil Judge Junior Division,  
Parseoni