

ORDER BELOW EXH.16 IN R.C.S. NO. 898/2024

This is an application moved on behalf of the defendants for condoning the delay to file the W.S.

2. In short it is contended that, due to want of necessary documents defendant could not file W.S and therefore no W.S.order is passed. There was no intention on the part of the defendant to delay the proceeding. Due to genuine reasons defendant could not file the W.S. Hence, the order be set aside and defendants be allowed to file the W.S.

3. The application is opposed on behalf of the plaintiff on the ground that, application is false and illegal. The reason stated is not justifiable. Just to prolong the proceeding, the application is filed. Hence application be rejected. In alternate it is prayed that, the cost of Rs. 10,000/- be granted.

4. Heard learned advocate for the defendants. No body is present on behalf of the plaintiff.

5. Gone through the record and proceeding. Record shows that, defendants appeared on 16/07/2025 and thereafter sought the time to file the say and W.S. Defendants have filed say to Exh. 5, on 30/09/2025. As the defendants failed to file W.S., the court has passed no W.S. order against them on 28/11/2025. Thereafter, the present application is filed on 22/12/2025.

6. No doubt there is delay in filing the W.S., but the fact of the matter is that, the defendants have already filed their say to Exh. 5 and

they have filed the pursis for adopting the same say as W.S. by praying to allow the present application. It is always better to decide any matter on merit by giving opportunity to the parties to present/defend their case. Considering the record and proceeding and fact that in alternate, the plaintiff has prayed for cost, in my view it would be just and proper to allow the application subject to cost. Hence, I pass the following order.

ORDER

- 1) Application Exh. 16 is allowed subject to cost of Rs. 1,500/- to be paid to the plaintiff on or before next date.
- 2) On payment of the cost pursis filed on behalf of the plaintiff to treat their say to Exh. 5 as W.S. be read and record.

Date – 21/02/2026

(R.V. Wanwadi)
2nd Jt. C.J.S.D., Nashik