

Regular Civil Suit No. 94/2017
CNR:MHNS13-001016-2017

Order Passed Below Exh. 23
Sahil and others Vs. Bhaskar and others

Read the application and say filed by the plaintiff. Perused record. Heard the learned advocate Shri. T. P. Ghumare for defendant no. 1 and learned advocate Smt. S. S. Niphade for the plaintiff.

2] This is a suit for the relief of partition, separate possession, mesne profit and perpetual injunction wherein application for condonation of delay of 161 days caused to file written statement of defendant no. 1 by setting aside no written statement order is filed. It is submitted on behalf of defendant no. 1 that, he was served with the suit summons on 03/11/2017 and he appeared before the court on 04/11/2017. He has to file his written statement till 01/02/2018. However, during that period, due to various litigations filed by plaintiffs against defendant no. 1, he was mentally disturbed. So also during that period he was busy in taking care of his mother all the time due to her old age. Therefore, he could not file his written statement within limitation. Hence, in view of order passed below Exh. 1 on 05/02/2018, the suit proceeded without written statement of defendants. It is further submitted by defendant no. 1 that, he will suffer irreparable loss, if he is not permitted to file his written statement on record by condoning delay of 161 days. Hence, the present application.

3] By filing say, the plaintiff resisted the application. It is submitted that, reason mentioned in the application is false. The matter is for recording cross examination of the plaintiff. Defendant no. 1 has filed

Regular Civil Suit No. 94/2017
CNR:MHNS13-001016-2017

no documentary evidence in support of his contention. The application is intentionally filed to delay the proceeding. Hence he prayed to reject the application.

4] Heard the learned advocates for both the parties. Perused the matter on record. In view of contentions of defendant no. 1, there is a possibility that, he could not file the written statement on record, as during that period, due to various litigations filed by plaintiffs against defendant no. 1, he was mentally disturbed and during that period he was busy in taking care of his mother all the time due to her old age.

5] Further on the perusal of matter on record it appears that, defendant no. 1 had sufficient cause which prevented him from filing written statement on record within stipulated time. Moreover it is epochal to note that, question of landed property is involved in the suit. Further it is important to note that, plaintiffs can be compensated by imposing costs. Considering the nature of suit, satisfactory grounds in the application and in the interest of justice, it would be worthwhile to allow the application filed by defendant no. 1 for the purpose of determining the real question in controversy between the parties. Hence, the order.

ORDER

- 1] Application (Exh.23) is allowed.
- 2] No written statement order passed against defendant no. 1 below Exh. 1 on 05/02/2018 is hereby set aside.

Regular Civil Suit No. 94/2017
CNR:MHNS13-001016-2017

- 3] Defendant no. 1 is allowed to file his written statement on record subject to payment of costs of Rs. 1000/- payable to plaintiffs.

Date : 20/10/2018

sdxxx
(S. N. Hurgat)
Joint Civil Judge Junior Division,
Pimpalgaon (B)

Regular Civil Suit No. 94/2017
CNR:MHNS13-001016-2017

Regular Civil Suit No. 94/2017
CNR:MHNS13-001016-2017