

**COMMON ORDER BELOW EXH. 32 AND 34**

1. The defendant no. 3 has filed application Exh. 32 for condonation of delay and to allow him to file his written statement and application Exh. 34 for setting aside no ws order passed against him.

2. According to defendant, he is doing agricultural business and meanwhile, he was not feeling well and therefore, he could not file his written within stipulated period and caused delay of 12 months and 27 days in filing written statement. If delay is not condoned, he will be deprived from putting his defence. Therefore, he requested to condone delay and allow him to file written statement on record. IN application Exh. 34, he contended the same grounds for setting aside no ws order and requested to allow both the applications.

3. The plaintiffs have given their say on the application vide Exh. 32 and contended that the application is not legal and the defendant no. 3 was duly served with suit summons but after a long period, he has filed this application and hence, requested to reject the application. The plaintiffs failed to submit their say on application vide Exh. 34 and therefore, said application is proceeded without their say.

4. Considering the contention of defendant and plaintiffs, following points arise for my determination and I have recorded my findings alongwith reasons stated as under :

**POINTS****FINDINGS**

- |    |   |                      |
|----|---|----------------------|
| 1. | Whether the defendant is entitled to condone the delay ?              | Yes.                 |
| 2. | Whether the defendant is entitled for getting set aside no ws order ? | Yes.                 |
| 2. | What order ?  | As per final order : |

**REASONS**5. **AS TO POINT NO.1 AND 2 :-**

Though it is stated by the defendant that the delay is caused because of his illness, and therefore, no ws order has also been passed against him on 10.01.2018, which has caused unnecessary hardship to the plaintiffs. However, say and written statement is required to decide the matter on merit. For that purpose, hardship of the plaintiffs is to be compensated in the nature of cost. Therefore, considering the principle of natural justice,"hear the both sides", the applications are granted as follows :

**ORDER**

1. The applications vide Exh. 32 and 34 are allowed subject to cost of Rs.1000/-.
2. The no ws order passed against the defendant no. 3 is hereby set aside.
2. After payment of Rs.1000/- to plaintiffs, the written statement of defendant no. 3 will be read and recorded.

Date :-21/1/2019

( Smt.S.P.Kulkarni)  
Civil Judge, J.D.,Dindori.