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CNR NO. MHNS14-000238-2019.

ORDER BELOW EXH. 21 IN R.C.S. No. 39/2019.

The defendant no. 1 has filed this application for setting aside the order of proceeding to be conducted without written statement against him.

2. The plaintiff filed his say and objected to the relief claimed by the defendant no.1 and prayed that, the application should be rejected.

3. Considering the submission of the defendant no.1 and plaintiff, following points arise for my determination and I have recorded my findings alongwith reasons stated as under :-

<u>SR. NO.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether the application should be allowed ?	Yes.
2.	What order ?	As per final order.

REASONS

AS TO POINT NOS. 1 AND 2 :-

4. Considered nature of the suit and gist of the application. *Prima-facie* it appears that, right to defend the suit claim is conferred on the defendant no. 1. The defendant

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no.1 appeared but failed to file written statement. Hence, order to proceed without written statement against him was passed on 6/11/2019. However, later he appeared and filed this application to set aside this order. Admittedly, the order was passed as because the defendant no.1 did not file written statement. However, he should get an opportunity to defend the suit claim. Hence, he is required to appear and file written statement on record. The principle of natural justice, "hear the other side" should not be overlooked. Hence, I am of the opinion that the hardship caused to the plaintiff due to this application can be compensated in the terms of money. But, altogether the opportunity of appearing in the matter cannot be denied for this reason. I am of the view that cost of Rs. 1,000/- would meet the ends of justice. Hence, I proceed to pass following order :-

:: ORDER ::

1. The application is allowed subject to cost of Rs.1,000/- (Rupees One Thousand Only).
2. After payment of Rs. 1,000/- to the plaintiff, the order of without written statement against the defendant no.1 will be set aside.

Date :- 16/03/2021.
Place :- Dindori.

(Smt. S. P. Kulkarni)
Civil Judge, Junior Division,
Dindori.