

ORDER BELOW Exh. 19 In RCS No. 197/2019.

The defendants No. 1 to 10 have sought set aside of order passed below (Exh. 1) dt. 11.02.2021. It is claimed that said order dated 11.02.2021 has been passed as defendants No. 1 to 10 failed to file W.S. within stipulated period. It is submitted that after service of summons to the defendants, they have appeared in the present suit, however, due to pandemic of covid-19 and the fact that normal functioning of the court and psychical hearing was only restricted to urgent matter, the defendant Nos. 1 to 10 could not file their written statement within stipulated time.

2. The application is strongly resisted by the plaintiff on the grounds that the application is false and that no specific reason has been mentioned as to why delay was caused for filing W.S. The application setting aside no W.S. has been filed only on behalf of defendant No. 6. Therefore, present application could not be considered for remaining defendants. The defendants even failed to explain how many days delay was caused for filing their W.S. Heard Advocate Shri. P. A. Ahire for the plaintiff and Advocate Shri. P. P. Bhamare for the defendant Nos. 1 to 10.

2. From perusal of record it appears that the defendants No.1 to 10 are appeared on 30.01.2020 by filing vakaltnama (Exh. 15). Therefore, it was incumbent on the part of the defendants to file their written statement within stipulated time as provided under O. 8 R. 1 of CPC, 1973. The present suit is for declaration. In such circumstances the written statement of defendants No. 1 to 10 needs to be taken on record to adjudicate the suit on merit. Undoubtedly, sufficient time was available to the defendants to file W.S. However, that alone would not be a ground to refuse opportunity of filing W.S.

in view of pandemic of covid-19. The fact of pandemic of covid-19 situation and normal functioning of the court was restricted only to urgent matters can not be neglected. Filing of W.S. is essential for just decision in the case and for deciding the real controversy between the parties at once on merits. No prejudice would be caused to the plaintiffs. Inconvenience, if at all, caused to the plaintiffs can be compensated in costs. Hence, the application is allowed subject to costs of Rs.200/-. Thus, the defendants No. 1 to 10 are permitted to file their written statement as prayed. After payment of cost of Rs. 200/- to the plaintiffs, the written statement of defendants No. 1 to 10 be read and recorded.

(Typed and pronounced in open court)

Date:- 24.08.2021.

**(A.G.Tamboli)
Joint Civil Judge Junior Division
Satana.**