

MHOS100009162021



Reg.Civil Suit No.370/2021
(CNR No.MHOS100009162021)

Order below Exh.41

01. The defendant No.1 has filed this application for setting aside “No written statement” order dated 01/02/2022. He further submitted that, he could not get necessary documents and therefore he could not file his written statement within stipulated period. He further submitted that, if the opportunity of filing written statement is not granted to him, he will sustain irreparable loss. Hence, he prayed to set aside No written statement order dated 01/02/2022 and permit him to file written statement on record.

02. The say of plaintiff was called. The Ld. Counsel for the plaintiff has filed his say and objected the application. He submitted that, summons was duly served to the defendant No. 1 on 20/10/2021, he appeared on 26/10/2021. Sufficient opportunity already given to the defendant No. 1 but he failed to file his written statement within stipulated period. He further submitted that, reasons mentioned in the application are not legal one. Defendant No. 1 has deliberately caused delay in filing this application. Hence he prayed to reject the application with cost.

03. Heard. Perused the record and documents. On perusal of record it reveals that, summons was duly served on defendant No. 1 on 20/10/2021 and he was appeared in the present case on 26/10/2021. Therefore, the defendant No. 3 ought to have file his written statement

within stipulated time as provided under Order VIII Rule 1 of The Code of Civil Procedure, 1908. However, considering the reasons mentioned by the defendant No. 1 in the application and in order to decide the matter on merit, it would be just and proper to give an opportunity to defendants No. 1 to file his written statement on record.

04. The provision of Order VIII Rule 1 of The Civil Procedure Code are directory in nature. In this view, considering the peculiar facts and circumstances of the case, the application deserves to be allowed. Hence I proceed to pass the following order :-

ORDER

- 1) The application is hereby allowed subject to costs of Rs.700/- (**Rs. Seven Hundred**), it be paid to the plaintiff.
- 2) The defendant No. 1 is hereby permitted to file his written statement on record.
- 3) The written statement filed by the defendant No. 31 be taken on record after the payment of costs.

Date : 01/10/2022

(J. S. Gaikwad)
Civil Judge Junior Division,
Washi.

CERTIFICATE

I affirm that, the contents of this P.D.F. file Judgment / order are same, word to word, as per the original Judgment/order.

Name of Stenographer	---	A.A. Joshi, Stenographer, (Grade-III)
Court	---	Civil Court,Washi,Tal.Washi, Dist.Osmanabad
Date	---	01-10-2022
Order signed by the presiding officer on	---	01-10-2022
Order uploaded on	---	03-10-2022