

ORDER BELOW EX. 20
(Passed On 14th June 2024)

1. This is an application for setting aside NO Reply/Say order and permission to file written statement on record filed by non applicant No. 5 and 6.

2. Perused the application and read the reply. I have heard Mr. B.V. Chonde learned counsel for non applicant No. 5 and 6 and Mr. A.N. Deshmukh learned counsel for applicant.

3. Mr. Chonde learned counsel for non applicant No. 5 and 6 submitted that applicant have filed present application Under Order 39 Rule 2A against non applicants. Mr. Chonde submitted that non applicant No. 5 and 6 failed to appear in court and thus No Reply/Say order was passed against them on 05-01-2024 as they failed to file Reply/Say on record within stipulated time. Mr. Chonde submitted in absence of written statement of non applicant No. 5 and 6 they would suffer irreparable loss. Mr. Chonde submitted in consonance to his application and prayed to set side order of No Reply/Say against non applicant No. 5 and 6 and to permit non applicant No. 5 and 6 to file written statement on record and accordingly prayed to allow the instant application.

4. Mr. Deshmukh learned counsel for applicant vehemently opposed the instant application and submitted that the instant application at this stage is not maintainable. Mr. Deshmukh submitted that non applicant No. 5 and 6 are negligent and careless in the instant matter though summons were served on them but they failed to appear in Court. Mr. Deshmukh submitted that Court had passed order of NO Reply/Say against

non applicant No. 5 and 6 and present application is filed on 15-03-2024 at the fag end of the day this itself reveals the vigilance and diligence of non applicant No. 5 and 6 in contesting the present matter. Mr. Deshmukh submitted that present application is filed on 15-03-2024 that too after lapse of stipulated period with ulterior motive just to harass applicant and to prolong the present matter. Mr. Deshmukh submitted in consonance to his reply and considering urgency he prayed to allow instant application.

5. On perusal of record it reveals that NO Reply/Say Order was passed against non applicant No. 5 and 6 on 05-01-2024 and present application is filed on 15-03-2024 at the fag end of the day. The instant matter is of the year 2023 and though present application is filed after lapse of stipulated period but an opportunity needs to be given to non applicant No. 5 and 6 to contest the present suit. It is pertinent to mention that no prejudice as such would be caused to applicant if they are compensated by cost. On the basis of arguments of rival sides, I am of the opinion that instant application needs to be allowed in the interest of justice. In the result, I am inclined to pass following order.

ORDER

1. The application at Ex. 20 is allowed subject to payment of cost of Rs. 350/- (Three Hundred & Fifty Only) to applicant & cost of Rs. 350/- (Three Hundred & Fifty Only) in TLISA. On failure to deposit cost instant matter would proceed further in accordance with law.

2. Non applicant No. 5 and 6 are allowed to file their written statement on record, after payment of cost.

Place:- Kallam

Date:- 14/06/2024

(N. A Ingley)
Civil Judge Senior Division
Kallam

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	-	S.R. Kale Stenographer (Grade-II)
Court	-	Civil Court, Senior Division, Kallam.
Date	-	14-06-2024
Order signed by the Presiding Officer on	-	14-06-2024
Order uploaded on	-	15-06-2024