

Order Below Exh. No.16
(Order passed on 05th March, 2022)

This is an application by defendant Nos. 1 and 2 for setting aside no W.S. order dated 09.09.2021 and 15.12.2021 and permission to file their W.S. on record.

2] It is the contention of defendants that the defendant No.1 is resided at Mumbai and defendant No.2 is old aged person. Therefore, they unable to collect the important document within time. Therefore, delay was cause for filing their written statement. Delay is not intentional. Their written statement is necessary to decide the matter on merit. Hence, they prayed to allow this application.

3 Learned Advocate of plaintiffs filed their say on this application and submitted that the reasons mentioned in this application is not cogent. Therefore, they prayed to reject the application or if allowed impose the cost of Rs.2000/-.

4 Heard learned Advocate of both sides.

5 In the light of submissions of both sides, I have gone through the record. Perusal of record it appears that this is the suit for partition and separate possession. It is admitted position that defendants are appeared before the Court but they failed to file their written statement within stipulated time. Defendants are

required to file their W.S. within 30 days and not later than 90 days as provided in Order 8 Rule 1 of the Code of Civil Procedure. Said provision is directory and said period can be extended on justifiable reason. Reason stated in the subject application is appears to be justified, if this application is allowed then certainly no prejudice would cause to plaintiffs. Fair opportunities to defend the suit is required to be given to defendants, to decide the real controversy between the parties. No doubt, there is delay on the part of defendants for filing their written statement. Therefore, in view of above discussion, I am inclined allow this application subject to certain cost. In the result, I proceed to pass the following order.

ORDER

- 1 Application is allowed.
- 2 The order of No W.S. passed against defendant Nos. 1 and 2 dt. 09.09.2021 and 15.12.2021 are set aside subject to cost Rs.400/- and it be paid to plaintiffs.

Dated:-05/03/2022.

(D.B. Gutte)
2nd Jt. Civil Judge Jr. Division,
Gangakhed.

C E R T I F I C A T E

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

Name of Stenographer : R. N. Sabne.