

Hasinabegum Vs. Rukhiyabee & Ors.**ORDER BELOW EXH.22**

The present application has been filed by defendant Nos. 2 to 4 by which it is submitted that, the order against them on 05.06.2023 be set-aside and permission to file their written statement on record.

02. The learned advocate Shri. K.A. Jawalekar for the defendant Nos. 2 to 4 submitted that, defendant Nos. 2 to 4 have promptly appeared in the suit for to contest the matter, however, there was no sufficient documents available with the defendants as well as due to communication gap between defendants and their advocate they could not file their written statement with the stipulated time and on 05.06.2023 the no written statement order has been passed below exh. 01 against them. He further submitted that, there was no deliberate or intention act on the part of defendants for not filling the W.S. within time but due to the reason mentioned above they could not file their W.S. Now, the defendants are ready to file their W.S. and want to contest the suit and unless and until the W.S. of defendants the matter could not be concluded finally and effectively and it would affect the rights of the defendants. Hence, in the interest of justice and equity, no written statement order dated 05.06.2023 is requires to be set-aside and permission to file W.S. on record.

03. On the contrary learned advocate Shri. U.V. Kharkar for the plaintiff submitted that, present defendants are not filed their W.S. intentionally within stipulated time. Hence, he prayed for rejection of application.

04. Perused the say and documents on record. Heard both sides. It appears that, the suit summons was dully served to defendant No.3 on 01.08.2022. Accordingly, defendant Nos. 2 & 3 appeared before this Court on 12.04.2023. But failed to file their W.S. within stipulated period though they have been given sufficient opportunity time to time. On 05.06.2023 no W.S. order below exh. 01 passed against defendant Nos. 2 & 3. Today defendant No.4 has appeared and filed his W.S. alongwith defendant Nos. 2 & 3. Today, defendant Nos. 2 to 4 are ready to file their W.S. on record. Considering the facts and circumstances though reasons mentioned in the application by defendant Nos. 2 & 3 are not justifiable but, in the interest of justice and for the proper adjudication of the matter it would be just and proper to allow the present application. Accordingly, I proceed to pass following Order.

Order

01. The application Exh. 22 is hereby allowed subject to costs of Rs.100/- each.

02. 'No written statement order' against defendant Nos. 2 & 3 dated 05.06.2023 passed below Exh.01 is hereby set aside.

Date : 25.07.2023

(Mandar M. Raut)
Civil Judge Junior Division,
Sailu Dist. Parbhani.