



R.C.S. No. 319/2016
Prabhu Vrs. Bhagwandas + 3

ORDER PASSED BELOW PLANT (EXH. NO. 39)
(CNR NO. MHPU09-003395-2016)

The original plaintiff has filed an application for set aside the order passed dated 22/06/2024 that the matter proceed without written statement on counter claim of defendants. Apart from it, the original plaintiff be permitted to file written statement on counter claim and delay of 14 months caused be condoned.

2. It is contented by the original plaintiff that, defendants have filed counter claim. But due to mismatch of dates of matter, he could not remember the date for filing his written statement on counter claim. The original plaintiff is old aged and due to which he could not remember dates of matter. His son is residing in abroad. When he contact with his son. He got the information that he has to file written statement on counter claim. But 14 months delay already caused for filing the written statement on counter claim of defendants and matter proceed on 20/06/2024 without the written statement on the counter claim.

3. Per contra, original defendants filed their reply (Exh. 40) that the matter was perusing by the advocate of the original plaintiff. Not specifically pleaded day by day for what reasons delay caused for filing to written statement on counter claim.

On 20/06/2024 matter proceed without statement on counter claim of the original plaintiff. But prior to it three dates posted for evidence of plaintiff. Accordingly, last chance was granted to file evidence an affidavit of original plaintiff subject to cost of Rs. 1000/-. But the original plaintiff neglected and failed to pay the cost. Therefore, original plaintiff had sufficient opportunities to file written statement on counter claim. But he failed to do so. Hence, prayed for rejection of this application.

4. Perused the application and say filed. Heard the learned advocate for original defendants. But when matter called out at about 4.15 pm. the learned advocate for original plaintiff remain absent. On the perusal of record it seems that the original defendants filed their counter claim on 29/03/2023. On 11/07/2023 defendants(original plaintiff) in the counter claim have received the copies. Thereafter, matter posted for filing written statement on counter claim of original plaintiff. On 11/08/2023, 23/08/2023, 04/09/2023, 26/09/2023, 20/10/2023, 04/11/2023, 01/12/2023, 13/12/2023, 03/01/2024, 08/01/2024, 22/01/2024, 15/02/2024, 02/03/2024, 15/03/2024, 03/04/2024, 16/04/2024, 29/04/2024, 04/05/2024 the original plaintiff failed to file their written on counter claim. But at last on 20/06/2024 matter proceed without written statement of original plaintiff on counter claim. Therefore, it appears that inspite of sufficient opportunities about one year, original plaintiff failed to file his written statement on counter claim. No

reason has been justified which prevent him from filing the written statement. But casually it has been mentioned that due to his old aged and mismatch of dates he failed to file written statement. But his advocate was pursuing the matter then in such situation he must contact with his advocate about the date posted for filing his written statement. No justified ground appeared on the record which prevent the original plaintiff for filing his written statement on counter claim. In such situation, I am of the view that it is not the fit case to set aside order dated 20/06/2024 that matter proceed without written statement on counter claim of original plaintiff. Hence, I proceed to pass the following order.

ORDER

Application is rejected.

Dated : 22.10.2024.
Place : Pimpri, Pune.

(N. R. Gajbhiye)
Civil Judge Junior Division,
Pimpri, Pune.

CERTIFICATE

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

Name of the Stenographer :- Smt. B. S. Jamkhandi (Karnikar)

Name of the Court :- Shri. N. R. Gajbhiye
C.J.J.D. and J.M.F.C. Pune.

Order / Judgment Date :- 22/10/2024

Order / Judgment signed by
the Presiding Officer on :- 22/10/2024

Order uploaded on :- 23/10/2024