



Order passed below Exh. 55

1. This is an application filed by the defendant No. 4, 6, 7 and 9 for set a side the no written statement allow them to file written statement on the grounds mentioned in the application. It is mentioned in application that, the defendant could not able to file their written statement within time due to as necessary documents are not available. It is also mentioned that, an opportunity is required to be given to file written statement, otherwise the defendants will suffer from irreparable loss which could not be compensated and prayed to allow the application. Plaintiff failed to file his say.

2. Plaintiff in his say stated that, reason mentioned for delay is not proper and valid, therefore necessary order be passed.

3. Perused the application. The defendant has mentioned the reason behind non filing of written statement. The plaintiff has filed the suit for declaration and injunction. The suit is involving the civil rights of the parties. It is the proposition of law that, "*No one should be condemned unheard.*"

4. In view of the legal ratio discussed in the case of, **Sandip Thapar V/s. S.M.E. Technologies Pvt. Ltd., reported in 2014(3) Mh.L.J., 242**, and the fact and circumstances of the case, it appears to me that, grant of permission to file written statement will help this court in full and final adjudication of the matter. It will extend an opportunity to the defendant for raising his defence. On the other hand, it will not cause any noticeable prejudice to the plaintiff.

5. The defendant by way of this application pray to allow him to file written statement. The defendant has placed on record the copy of written statement. The application is supported alongwith affidavit. Therefore, considering the nature of dispute and for deciding the matter on merit, I am of the opinion that, the application deserves to be allowed subject to costs as in the interest of justice.

**ORDER**

1. No written statement order passed against defendant no. 4, 6, 7 and 9 is hereby is set aside subject to costs of Rs. 500/-.
2. Costs be paid to plaintiff.

Date : 30/01/2024

( R.D.Wabale )  
Civil Judge Jr. D. Khalapur