

**Kusum Shet & Ors Vs.
Sharad Duduskar.**

**ORDER BELOW EXHIBIT 13 IN RCS NO. 49/2017
(Decided on 17/11/2018)**

The defendant presented this application for setting aside ' No W S ' order passed against him on 20/12/2017. Perused the application and say of the plaintiff. Heard both the parties.

02. The defendant submitted that he had appeared before the court after service of summons but could not obtain necessary documents to file written statement within stipulated period of time. Consequently, on 20/12/2017 the 'No W S' order was passed against him. Hence, he prayed for setting aside that order. The plaintiffs raised their objection and filed their say at Exh.15. They contended that the defendant failed to file written statement within stipulated period of time. Hence, they prayed for rejection of the application.

03. I have gone through proceedings of the matter. Despite service of summons the defendant failed to file the written statement within stipulated period of time. The present suit is for recovery of possession under Section 106 of Transfer of Property Act. The defendant submitted that he was ill therefore, could not file written statement within reasonable time. The grounds for not filling the written statement within stipulated period of time are not justified. But considering the nature of the suit an opportunity should be given to him to put forth his case before this court. In order to determine a real dispute between both the parties and to avoid multiplicity of litigation following order will meet the ends of justice.

ORDER

Application is allowed.

'No W S' order passed against the defendant on 20/12/2017 is hereby set aside subject to cost of Rs.200/- to be paid to the plaintiffs on or before the next date.

After payment of cost the written statement shall be taken on record.

Mangaon.

Date:- 17/11/2018

(G.S. Hange)

Civil Judge J.D. Mangaon.