

MHRG140001012009



R.C.S. No.27/2009

Order below Exhibit 72

1. This is an application by plaintiff praying to set aside no WS order passed against him.
2. It is contended by the plaintiff that, in this suit plaintiff failed to file a reply to the defendant's counter claim within stipulated period, hence no WS order was passed against plaintiff. Hence, prayed to set aside no WS order as it is necessary in the interest of justice.
3. While defendant strongly objected this application submitting that, the application is not maintainable as plaintiff has not mentioned number of days delay caused. As per law, it is necessary and mandatory to explain the delay of each day. The plaintiff has neither explained delay of each day nor the reasons stated therein are reasonable or justified and plaintiff has had knowledge of the filing of counter claim from the very date on which it was filed. Hence, prayed to reject this application, in case of allowing subject to cost of Rs.25,000/- to be paid.
4. Perused the application, say, supporting affidavit, documents filed on record.
5. After perusing this application, the defendant file his WS

along with counter claim vide Exh.14 on 28.04.2009, to which the plaintiff was expected to file his WS to that counter claim. But despite of opportunity of more than 5 years the plaintiff did not file his WS to the counter claim. Though the reasons for such huge delay are not explained satisfactorily, yet in the circumstances, considering a fair opportunity in the interest of justice and proper execution, I find that the defendants deserve an opportunity to file their WS, at the same time such delay in the proceedings has to be compensated. Hence, the order:-

ORDER

- i. The application is allowed subject cost of Rs.10,000/- to be paid till next date.

Uran,
Date : 28.01.2026

Sd/-
(M. S. Quazi)
Civil Judge, J.D., Uran