

ORDER BELOW EXH. 28 IN R.C.S. No. 66 of 2019

(Anant Laxman Mali and others Vs Bhiku Govind Mali and others)

(CNR No: MHRT070010772019)

Perused the application, say and document on record.

2. Heard the argument of both sides.

3. Defendant no.1 to 3 have filed the present application to set aside No W.S. order passed against them. The defendant contended that due to the Covid -19 lock-down situation they have not filed their W.S. in time. The plaintiff filed his say at Exh.34 and contended that there is no proper and sufficient reason given in the application. The plaintiff further contended that the defendants filed their W.S. after the period of more than one year from the date of service of summons. The plaintiff further contended that it was possible to them to file the W.S. before the lock-down situation. The plaintiff further contended that the reason to set-aside No W.S. order is not satisfactorily explained. Hence, prayed to reject the application.

4. The reason given by the defendants for not filing the written statement before the lock-down is that the defendant went out of the city and due to that it was not possible to them to communicate to his advocate. The reason for not filing the W.S. due to the lock-down situation is satisfactory and genuine. If the application is rejected, defendants will remain unheard and suit is not decided on merit. In order to decide the suit on merit, it is necessary to give opportunity to the defendants to file their W.S. The application is supported with affidavit. If the W.S. of the defendants are came on the record, then it will not cause loss of the plaintiff. But if the application is rejected the defendants will remain unheard. Hence in order decide to suit on merit I pass following order :

ORDER

1. The application is allowed.
2. No W.S . order passed against defendant no. 1 to 3 is set aside.

Date - 11/02/2021.

(V. A. Jadhav)
Jt. Civil Judge J.D., Chiplun