

Order below Exh. 17 in R.C.S. no. 83/2019

(CNR No. MHRT080006822019)

By the present application, the defendant has prayed for setting aside the order whereby it was directed that, the suit shall proceed without his written statement. He has also prayed for leave to file the written statement.

02. It is contended that, the plaintiff bank has instituted the present suit against present defendant. Likewise, the plaintiff bank has instituted different such suits against other persons. So also, a criminal case bearing Regular Criminal Case no. 16/2019 is instituted against present defendant and others. As the defence of this defendant would have disclosed and it would have prejudiced him in the the said proceeding, the written statement could not be filed. The defendant has made an application for granting time to file the written statement for aforesaid reason. Said application is rejected. Thereafter, the defendant has filed the written statement alongwith present application. As such, leave to file the same may be granted, contends the defendant.

03. The plaintiff has filed reply at Exh. 21. It is stated that, Regular Criminal Case no. 16/2019 is relating to the offences punishable under sections 420, 465, 467, 468, 417 r.w. section 34 of IPC. Said case has nothing to do with the present suit. Seeking time to file reply on alleged ground was irrelevant. The defendant has appeared on 28/01/2020. Then application made by the defendant whereby time was sought for filing written statement is rejected on 04/05/2022. On that day, the Court has passed order and directed that, the matter shall proceed without written statement. In view of all these facts, present application is not tenable. If it is allowed, heavy cost be imposed.

04. Perused the record. Heard both sides.

05. Learned advocate for the defendant submits that, the defendant is an agriculturist. He is a poor person. Thus, in view of facts stated, an opportunity may be granted for filing written statement.

06. Learned advocate for the plaintiff submits that, the grounds stated in the application are not justifiable. At all, if the application is allowed, heavy cost need to be imposed.

07. The ends of justice in any proceeding can be secured only when both parties are afforded every reasonable and fair opportunity to contest the matter on merits. In absence of pleading, the defendant would not be in position to defend himself. Thus, liberal approach for allowing a party defendant to file the written statement is needed. At the same time, a person who has delayed the proceeding need to be asked to compensate the plaintiff by way of cost. As such, in the given set of facts and circumstances, it would be just to allow the defendant to file the written statement subject to payment of cost of Rs. 500/-. Hence, I pass following order -

ORDER

1. Application is allowed subject to cost of Rs. 500/- (Rupees Five Hundred).
2. The amount of cost shall be paid on or before next date.

Date :- 16/12/2022

(B. D. Tare)
Civil Judge (J.D.), Deorukh.

- : C E R T I F I C A T E : -

Judgment/order in (Order below Exh. 17 in R.C.S No. 83/2019)

I affirm that the contents of this Pdf file order are same words as per original order.

Name of Stenographer	:- S. S. Thaware (Jr. Clerk)
Court Name	:- The Court of Civil Judge (J.D.) & Judicial Magistrate F.C., Deorukh
Date of decision	:- 16/12/2022
Order signed by PO. on	:- 16/12/2022
Order uploaded on	:- 17/12/2022