



Order Below Exh. 30 in R.C.S. No. 30/2021
(CNR No. MHRT08-000455-2021)

1. The present application is filed by defendant no. 1 to set aside no say order and no W.S. order passed against him and submitted as under:-
2. Due to non availability of necessary documents defendant no. 1 could not file his written statement in the court within stipulated time. The defendant no. 1 prayed to allow the present application and to set aside no say and no W.S. order passed against him and seeking permission to accept written statement, Say.
3. On the other hand, the plaintiff has filed his say and submitted that the reasons mentioned in the application are false. The present application is filed with intend to prolong the matter and therefore application may be rejected with cost.
4. Heard both sides at length.
5. Perused the record. It seems defendant no. 1 have filed this application for setting aside no say and no W.S order. It is true that there is a delay to file W.S. on record. As per the provision of O.VIII Rule 1 of C.P.C. the word "Shall" is used. However, C.P.C deals with procedure and it is settled position that procedure is handmade of justice and every purpose of procedure is to facilitate the justice. Therefore, considering the principle, "no man shall condemn unheard" it is necessary that opportunity needs to be given to defendant to defend the case in the interest of justice.

6. However, so as to decide the suit on merit, if the order of no say and no W.S is set aside that will not be cause prejudice to the plaintiff. So far as delay is concerned and financial loss cause to the plaintiff in attending the court is concerned, that can be compensated by saddling some cost to the defendant. Accordingly, following order is passed.

ORDER

1. The application is allowed.
2. No say and no W.S. order passed against defendant no. 1 is set aside subject to payment of costs of Rs.100/- to the plaintiff.
3. Defendant no. 1 is allowed to file his say and W.S on record.
4. Compliance be made within stipulated time.
5. Advocate and parties to note.

Date : 16.02.2022

(P.V.Patil)
Civil Judge,Deorukh

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

Judgment/order in (Order below Exh.30 in R.C.S No.30/2021)

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	:- 16/02/2022
Order signed by PO. on	:- 16/02/2022
Order digitally signed by PO. on	:- 16/02/2022
Order uploaded on	:- 16/02/2022