

**ORDER BELOW EXHIBIT 72 (I.A.No. 03/2023) IN R.C.S. NO.
14/2015**

The present application is filed by the Ld. Advocate for defendant no. 12 to set aside no W. S. order dated 06/04/2023 passed against him.

02. Perused the application and say. Heard both sides. It is submitted by the applicant/defendant no. 12 that he had to have filed written statement but he could not file the same due to illness. He had gone to Mumbai for medical treatment, therefore, no W.S. order came to be passed against him. It is further submitted that there was no deliberate intention of the defendant no. 12 for non filing written statement. If written statement is accepted, then it will not cause any loss to the plaintiff. It will help for deciding matter on its own merits. However, if he is not allowed to filed W.S., he may suffer irreparable loss. Thus, defendant no. 12 has prayed for setting aside no W.S. order passed against him

03. The plaintiff through her Ld. advocate has strongly objected the application and submitted that defendant no. 12 has deliberately delayed for filing written statement. If the application is allowed in the interest of justice, then heavy cost may be imposed upon her.

04. Considering submission of the parties, the Court has to see, whether sufficient reason is brought on record to allow defendant to file written statement on record. I have gone through the record and proceeding. It is pertinent to note that no

W.S. order came to be passed against defendant no. 12 on 06/04/2023. After passing no W.S. order against defendant no. 12, the present application is moved on next listed date of the matter. It is clear that after passing no W.S order, defendant no. 12 has prayed for setting aside no W.S. order on very next date.

05. It is further pertinent to note that, the reason put forth by defendant no. 12 is in respect of his illness. No medical certificate is filed on record to show illness of the defendant no. 12 at particular time, but the statement has been made by defendant no. 12 on the basis of affidavit. The contents of the application are made by the plaintiff but, the application is supported by affidavit. The fact that the defendant no. 12 applied for setting aside no W.S. order passed against him on very next date shows his bonafied. In such circumstances, there is no reason to say that defendant no. 12 deliberately avoided to file written statement. Hence, application is deserves to be allowed. Thus following order is passed.

-: ORDER :-

1. The application is allowed.
2. No written statement order passed against defendants 12 dt. 06/04/2023 is hereby set aside.
3. Written statement filed by defendant be taken on record.

Date : 10/07/2023

Amardeep D. Tidke

Place : Malvan.

Civil Judge Junior Division Malvan.