

**CNR No. MHSI070002312022****Common Order passed below Exh. No.22 and 23
(I.A. No.3/2023) in R.C.S. No.52/2022**

The present application is filed by the defendants to set aside no written statement and no say order dated 25/08/2022.

2. The defendants have contended that, the defendants could not get necessary documents within the prescribed period. Therefore, defendants could not file their written statement and say within stipulated period. Consequently, no written statement and no say order was passed against the defendants. The said delay was not caused intentionally. If the no written statement and no say order is not set aside, it will cause irreparable loss to the defendants. Therefore, prayed to set aside no written statement and no say order passed against them.

3. The plaintiff has resisted the application by filing say on overleaf of the application. It is contended that the satisfactory reasons are not assigned, therefore, prayed to reject the applications.

4. Heard Both the sides. Both the parties have reiterated the contentions of application and say. Perused the record. The record shows that suit summons was served to the defendants. In response to the suit summons, defendants have appeared before the court, but failed to file their written statement and say. Therefore, my learned predecessor has passed no written statement and no say order against the defendants. The defendants have assigned reason for delay that the defendants

could not get necessary documents within the prescribed period, therefore, delay was caused to file written statement and say. The said application is supported by the affidavit of the defendant no.2. he affidavit shows that defendants have assigned sufficient reason for their absence.

5. The present suit is filed for perpetual injunction and mandatory injunction. The valuable rights of the parties are involved in the present case. Therefore, in order to arrive at just decision of the case, it would be just and proper to grant an opportunity to the defendants to put up their case. At the same time, it is necessary to impose heavy Costs upon defendants for delay to file their written statement and say. Therefore, it would be just and proper by imposing Costs upon the defendants to set aside no written statement and say order passed against them and allow them to file written statement and say. Hence, I pass following order.

ORDER

1. The application at Exh.22 and 23 is hereby allowed and order dated 25/08/2022 is hereby set aside on payment of Costs of Rs.500/- (Rupees Five Hundred Only).
2. The Costs amount be paid by the defendants to the plaintiff.

(Pronounced and dictated in open Court.)

Place - Malvan
Date - 15/04/2023

Mahesh R. Devkate
Jt. Civil Judge Jr.Dn., Malvan.