

**CNR No. MHSI070002382014****Order passed below Exh. No.64
(I.A. No.3/2023) in R.C.S. No.69/2014**

The present application is filed by the defendants no.1 and 2 to set aside no additional written statement order dated 03/01/2023.

2. The defendants no.1 and 2 have contended that, on 03/01/2023 no additional written statement order was passed against defendants no.1 and 2. The defendants were busy in their work at Mumbai, therefore, they could not meet their advocate and failed to file their additional written statement within time. The said delay was not caused intentionally. If the no additional written statement order is not set aside, it will cause irreparable loss to the defendants no.1 and 2. Therefore, prayed to set aside no additional written statement order passed against them.

3. The plaintiff has resisted the application by filing say on overleaf of the application. It is contended that present application is false and frivolous and the defendants have not filed any evidence in support of the reasons. Therefore, prayed to reject the application.

4. Heard Both sides. Both the parties have reiterated the contentions of the application and say. Perused the record. The record shows that the plaintiff has preferred application at Exh.53 for carrying out amendment. The said application was allowed. The plaintiff was permitted to carry out amendment. Accordingly, on 01/08/2022, the plaintiff has filed amended plaint. The defendants no.1 and 2 have failed to file additional written statement within the stipulated time. Therefore, on

03/01/2023, no additional written statement order was passed against the defendants no.1 and 2. The defendants no.1 and 2 have assigned reasons for delay that they were busy in their work at Mumbai, therefore, they could not meet their advocate. Consequently, they could not file additional written statement within time. The said application is supported by the affidavit of the defendant no. 2. The affidavit shows that defendant no.1 and 2 have assigned sufficient reason for their absence.

5. The present suit is filed for the possession and separate share. 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 no.1 and 2 to put up their case. At the same time, it is necessary to impose Costs upon defendants no.1 and 2 for delay to file their additional written statement. Therefore, it would be just and proper by imposing Costs upon the defendants no.1 and 2 to set aside no additional written statement order passed against them and allow them to file written statement. Hence, I pass following order.

ORDER

1. The application at **Exh.64** is hereby allowed and order dated 03/01/2023 is hereby set aside on payment of Costs of Rs.500/- (Rupees Five Hundred Only).
2. The Costs amount be paid by the defendants no.1 and 2 to the plaintiff.

(Pronounced and dictated in open Court.)