



ORDER BELOW EXHIBIT 32 IN RCS NO. 79/2017

This is an application by defendant No.1 for setting aside no written statement and no say on Exhibit 5 order dated 06/12/2017 and for permission to file written statement beyond the statutory period.

[2] It is contended by the defendant No.1 that due to non-availability of necessary documents he could not file his written statement and say on Exhibit 5 within limitation. Therefore, no written statement order and no say on Exhibit 5 order are passed against him. The delay is not intentional. If the above order is set aside no prejudice will be caused to the plaintiff. Hence, the application. Per contra the plaintiff strongly resisted the application by filing say. It is his contention that there is huge delay for filing his written statement. It has caused delay in hearing of the suit. Hence, it is prayed that the application be rejected.

[3] Heard. Perused the record of the case.

[4] The present suit is filed for perpetual injunction. It is matter of record that there is delay in filing of written statement and no written statement order is passed against the defendants. But, considering the fact that the suit is for perpetual injunction and the rights of both the plaintiff and the defendants are involved, it is necessary to give an opportunity to defendant No.1 to put forth his case on merits. It is a principle of natural justice that both the parties should have an opportunity to contest their case on merits. Therefore, the application is liable to be allowed. However, considering the delay, I am inclined to impose appropriate costs on defendant No.1. Hence, I proceed to pass the following order.

ORDER

The application is allowed.

The no written statement order dated 06/12/2017 and no say order on Exhibit 5 is hereby set aside and defendant No.1 is allowed to file his written statement on record subject to payment of costs of ₹ 500/- to the plaintiff.

Date : 03/08/2019
Place : Malvan

Bhanupratap Chouhan
Judicial Magistrate First Class

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED ORDER/JUDGMENT.”

Chandrakala Vasant Chavan
NAME OF STENOGRAPHER

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| Name of the PO | Shri. Bhanupratap Chouhan |
| Date of pronouncement | 03/08/2019 |
| Order signed by PO on | 03/08/2019 |
| Order uploaded on | 05/08/2019 |