

R.C.S.No. 31/2015

Laxman Rumade Vs. Ramaji Khot & Ors.

Order below Exh. 17

The present application is filed by the defendant no. 2 and 3 for setting-aside No W.S. order passed against them.

2. Read the application. Also read the say filed by plaintiff. According to defendants their mother i.e. deft. no. 5 was suffering from illness and she was under medical treatment. Also due to illness of their mother they are unable to attend the Court. They also claimed that, they have not caused any delay deliberately. They be permitted to raise their defence. For that reason delay be condoned and no W.S. order passed against him be set-aside and they be permitted to file their written statement. Application is strongly objected by plaintiff on the ground that, there are no reasonable ground given by the defendants and also they have not produced any documentary evidence. Hence application be rejected.

3. Perused record and proceeding. On perusal of record it appears that, No. W.S order was passed on 29/10/2015. The record shows that, the present application is filed on 18/01/2015. The delay from the appearance till filing of present application is not properly explained by the defendants. Also they have not filed medical certificate of their mother on record. However, as the suit is for perpetual injunction, it is necessary to give the opportunity to the defendants to raise their defence. Furthermore in order to avoid the multiplicity of proceeding and in order to grant fair opportunity of trial to the defendants it would be just and proper to allow the defendants to raise their defence. As the delay is not properly explained, it is necessary to impose heavy cost on the defendants. Hence the following order.

- ORDER -

(1) Application is allowed subject to cost of Rs. 500/- out of which Rs.

250/- to be paid to the plaintiff and remaining be credited to Government.

- (2) After depositing cost amount No W.S. order passed against defendant no. 1 and 3 be set-aside.
- (3) Cost in final cause.

(K.K.Mane)

Date :- 08/02/2016

Civil Judge (J.D.), Deogad.