

Order below Exh.36 in R.C.S.No.56/2023
(Bhagyashree Phalke V/s. Dattatraya Kadam)
(CNR: MHSN02-000379-2023)

The plaintiff has moved this application for setting aside the No.W.S. order passed against him for not filing written statement to the counter claim of defendant No.1 within prescribed period.

2. According to plaintiff, she did not provide the necessary information to her Advocate within prescribed time due to some family crisis. However, it is necessary to contest the counter claim of defendant No.1 on merits. Accordingly, plaintiff prayed for setting aside the No. W. S. order passed against her.

3. Defendant No.1 filed his say overleaf. According to him, this Court passed the order of No. W. S. against plaintiff on 12.07.2023. Since then, plaintiff has not filed the application within prescribed period. No sufficient reason has been provided to explain the aforesaid delay. Accordingly, prayed for rejection of application. In case, the Court comes to the opinion that the application should be allowed, then order of heavy costs be passed against plaintiff.

4. Heard both sides. Perused the record.

5. It appears from the record that, the counter claim was made by defendant No.1 on 12.07.2023. The issues have been framed in this matter on 05.12.2024. As pointed out by the defendant No.1 the No.W.S. order was passed against plaintiff on 03.04.2024. The reason mentioned in application for not filing the written statement in prescribed time does not occur to be sufficient. However, in the interest of justice and to provide reasonable opportunity to plaintiff to contest the counter claim of defendant No.1 on merits, it will be proper to allow this application. However, since the present application was made about 6 to 7 months from the date of passing the concerned order, it will be proper to impose some amount of costs payable by plaintiff to defendant No.1. Hence, I pass following order.

ORDER

1. Application is allowed.
2. No W.S. order passed below Exh.20 is set aside subject to payment of costs of Rs.100/- to defendant No.1 on or before next date.

Sangli.
Date:-29.01.2025

(O. S. Shastri)
11th Jt. Civil Judge Jr. Dn., Sangli.

CERTIFICATE

I affirm that the contents of this PDF file are same as per original.

Name of Stenographer :- R. B. Samalewale

Name of the Court :- Shri. O. S. Shastri.

11th Jt. Civil Judge Jr. Dn., Sangli.

Date of decision :- 29.01.2025

Order signed by PO. on:- 29.01.2025

Order uploaded on :- 31.01.2025