

Order below Exh. 22 in R.C.S.No.49/2024

Perused the application. This is an application for setting aside of No ex-parte order passed against the defendant no.3 dated 28.08.2024.

2. As per contentions in the application, said defendant could not file W.S. within stipulated period because of non-availability of documents.

3. On the contrary, plaintiff filed his say as Ex. 24 and opposed this application on the ground that it is just for prolonging the proceeding.

4. Heard learned Advocates of both parties.

5. Perused the application and say. Perusal of record shows that despite of sufficient opportunities, this defendant no.3 could not file W.S. within provisional period. Hence, No W.S. order was passed against him on 28.08.2024. It is order of 'No W.S.' and not of ex-parte. It is to be noted here that 'Audi alteram partem' – both parties should be heard, is basic principle of natural justice. Hence, in order to decide the matter on merits and in the interest of justice, application deserves to be allowed. Hence, the order-

ORDER

1. Application is allowed, subject to cost of Rs.400/-.
2. Defendant no.3 shall pay above said cost of Rs.400/- to other side.

3. No W.S. order passed against defendant no.3 dated 28.08.2024 is hereby set aside.
4. Defendant no.3 is allowed to file his W.S. within 14 days from the date of this order.

Sangli.
Date-26.09.2024

(Snehal R. Joshi)
5th Jt.C.J.J.D. Sangli