

**ORDER BELOW EXH.19 IN
REGULAR CIVIL SUIT NO.389/2022.**

This application is filed by defendant No.1 and 2 to set aside order of hearing the suit without their written statement passed on 15.11.2022 and 07.12.2022 and for permission to file their written statement and counter claim. It is the contention of the said defendants that they have no knowledge of law and hence they were unaware about consequences of not filing their written statement within stipulated time. It is further contended by these defendants that they failed to collect necessary documents and hence they could not file their written statement within time. Hence, considering this reason and in the interest of justice to decide the matter on merit it is essential to hear both parties. With this the defendants prayed that, the order of hearing this case without their written statement be set aside and permission be granted to file their written statement and counter claim.

2. The plaintiffs filed their say on the back leaf of the the said application and strongly objected the application on the ground that reasons stated by these defendants for not filing written statement within prescribed time limit are false. Defendants intentionally not filed written statement within stipulated time. Hence plaintiff prayed for rejection of the application filed by defendants. It is further contended by Plaintiffs that if the court come to the conclusion to allow the said application

then maximum costs be imposed on defendants.

3. Read the application and say, heard learned advocates for the plaintiff and defendant Nos. 1 and 2.

4. On perusal of the application, it reveals that, reasons stated in the application for not filing the written statement within time, appears to be proper and justifiable. Therefore, in the interest of justice & for deciding real dispute between the parties, order of hearing the suit without written statement of defendant Nos.1 and 2 deserves to be set aside and the defendant Nos.1 and 2 are required to be permitted to file their written statement and counter claim. At the same time it should not be avoided that due to not filing of written statement by defendant Nos.1 and 2 within statutory period delay is caused. Such delay can be compensated by the payment of costs to the Plaintiff. Considering all these facts, I pass following order.

ORDER

1. Application is allowed.
2. Order passed below Exh.1 Dt.15.11.2022 and 07.12.2022 of hearing the suit without the written statement of defendant Nos.1 and 2 is set aside subject to payment of costs of Rs.500/- (Rs. Five hundred only) to plaintiff.

Place- Islampur
Date- 23.02.2023.

Sd/-
(D. J. Pandit)
8th Jt.Civil Judge, Jr.Dn., Islampur.

CERTIFICATE

I affirm that the contents of this Pdf file order are same word as per original order

Name of Jr. Clerk : Shri. P. M. Satpute

Court Name : D. J. Pandit
8th Jt. Civil Judge Jr.Dn. & J.M.F.C.
Islamapur.

Date of Decision : 23.02.2023

Order Signed by P.O. on : 23.02.2023

Order Uploaded On : 23.02.2023