

ORDER BELOW EXH. 26 IN R.C.S. NO. 148 / 2017

1] Defendant no. 1, 5 and 6 filed this application for setting aside no WS order passed against them. Defendant's advocate submitted that the plaintiff filed suit for partition, declaration and injunction, to the said suit defendant has not filed written statement within the limitation by reason that mother of defendant no. 5 is sick. Therefore they could not approach their counsel and failed to furnish document and information consequently they could not file WS within time. Hence no WS order passed against defendants. Now defendants prays that delay may be condoned and no WS order be set aside as well as defendants be permitted to submit their WS and say on record.

2] To this application plaintiff filed his say at Exh. 27. In which plaintiff opposed the application of defendant by stating that reasons provided in application for setting aside no WS order are false and vague. They have not filed WS within limitation with view to prolong the matter. So application be rejected.

3] Thus from the submission of plaintiff and defendant it is clear that defendant has made delay in filing his WS, but the said delay was caused due to bonafide and sufficient reasons. Hence in the interest of justice and for deciding suit on merit opportunity of filing WS should be given to defendant no. 1, 5 and 6. Though they have caused delay in filing their WS, but the said delay is not unreasonable in nature. Moreover no injustice will be caused to plaintiff if the cost of Rs. 600/- imposed on defendants. Therefore I pass the following order.

(2)

ORDER

- 1] Application is allowed.
- 2] No WS order passed against defendant no. 1, 5 and 6 is hereby set aside, they are permitted to file their WS on record subject to payment of cost of Rs. 600/- to plaintiff.

Miraj.
Date: 10/11/2017

Sd/-
(S.M. Kolekar)
IInd Jt. Civil Judge Jr. Dn., Miraj