

(CNR No.: -MHSN06-002879-2016)
(Gita Pramod Patil V/s. Raosaheb Shankar Chavan-6)
ORDER BELOW EXHIBIT 32 IN REGULAR CIVIL SUIT
No.296/2016
(Order dated 11/07/2019)

1. This application is filed by defendant No.7 Milind Shivaji Isapure to set aside order of hearing without his written statement and for permission to file his written statement.

2. It is contention of defendant No.7 that, the plaintiff has filed the present suit for declaration and separate possession. On 09/09/2016 summons of the suit is served to him and he has filed Vakalatnama on 15/09/2016. Meanwhile, discussion was going on between the plaintiff and defendant No.1 for compromise. Defendant No.1 was ill and thereafter he is died. Therefore, compromise could not take place. Therefore, he could not file his written statement in stipulated time. On 09/12/2016 this court has passed no written statement order against him. There is 14 months and 3 days delay for filing written statement. It is further contended that, the defendant has not caused delay to file his written statement with any intention. If, this defendant is not allowed to file her written statement, he will cause irreparable loss. Whereas, if this defendant is allowed to file his written statement, it will help to decide the matter on merit. Hence, considering these reasons and in the interest of justice to hear both parties on merits, it is necessary that order of hearing without written statement of defendant be set aside.

3. The plaintiff has filed her say at Exhibit 33 and objected the application on ground that, reasons stated in the application are

not proper. After lapse of one year and four months of death of defendant No.1, defendant No.1 has filed his written statement. Defendant No.7 is trying to prolong the matter. Therefore, the plaintiff prayed to reject the application by imposing heavy cost on defendant No.7.

4. Perused application, say and the record of case. Heard both side.

5. On perusal of the application, it reveals that, reasons stated in the application for not appearing and delay for 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 the defendant deserves to be set aside and be permitted to file their written statement. The delay caused can be compensated by imposing cost on the defendant. In the result, I pass following order.

ORDER

1. Application is allowed.
2. Order of hearing the suit without written statement of defendant No.7 Milind Shivaji Isapure is set aside subject to payment of costs of Rs.1,000/- (One Thousand Rupees only) to the plaintiff as condition precedent.
3. Payment of cost Rs.1,000/- to the plaintiff till next date is condition precedent, otherwise suit will be heard without written statement of defendant No.7.

Place: Miraj.
Date: 11/07/2019.

(Nilesh M. Wali)
Jt.C.J.J.D., Miraj.

I affirm that, the contents of this P.D.F. file Judgment/Order are same, word to word, as per the original Judgment/Order.

Name of the Stenographer : S. P. Pethkar.
Court : Jt.C.J.J.D. & J.M.F.C., Miraj.
Judgment/Order signed by
the Presiding Officer on : 11/07/2019.
Judgment/Order uploaded on : 12/07/2019.