

ORDER BELOW EXH.31 IN R.C.S. No.178/2016
(Prakash Kaulapure V/s. Dhondiram Mali)
(CNR No.MHSN080011282016)

Defendant No.1/1 has moved this application to set aside no w.s. order passed against him. It is contended that due to old age and suffering from illness, defendant No.1/1 could not provide necessary information and documents to his learned Counsel. As a result, he could not file written statement within stipulated period. Thus, No W.S. order came to be passed against him. Hence, prayed to allow the application.

2. On the contrary, learned advocate on behalf of plaintiff has filed say overleaf of the application and contended that the present application has been filed on behalf of defendant No.1 and 1/1. However, defendant No.1 has died. The present application is not supported with the affidavit of defendant No.1 and 1/1. Therefore, prayed to reject the application.

3. Heard both the sides. Perused the record. It is generally expected that each matter shall be decided on its own merits. If the defendant is denied the right to file written statement, then matter will not be decided on merits. There would not be just and fair trial in absence of the defendant. Hence, considering the principle of natural justice, the application deserves to be allowed. Hence, I proceed to pass the following order.

ORDER

1. No W.S. order passed against defendant No.1/1 is hereby set aside.
2. Written statement of defendant No.1/1 be taken on record.

Jath.
Date:-06.01.2026

(Prakash C. Bachhale)
Civil Judge Junior Division, Jath.