

ORDER BELOW EXH. 32 IN R.C.S. No. 01/2022

(Passed on 11/11/2022)

This is an application filed by defendant no.1 for setting aside formal no.w.s. order. This application is filed beyond ninety days from the service of summons as written statement has not been filed by defendant no.1 within stipulated period. The application is supported by an affidavit.

2. It is contended that, defendant no.1 appeared on 23.02.2022 however, being old age person he couldn't obtained required necessary documents on time. Therefore, he was not able to file his written statement within stipulated period. Further it is contended that, to decide the suit on merit it is necessary to grant fair opportunity to defendant No.1. Hence, prayed that the application be allowed and defendant no.1 be permitted to file his written statement.

3. The plaintiff has filed her say below the application and resisted the application. It is contended that the application is false. If the court comes to conclusion to grant permission to defendant No.1 to file his written statement cost may be imposed on defendant no.1 and it be paid to the plaintiff.

4. Perused the application and say. Heard both sides. It is pertinent to note here that the defendant no.1 appeared on 23.02.2022 and he was served with suit summons on 07-02-2022 vide Exh.15. Present application is filed on 06.07.2022 i.e. after lapse of almost two months from the expiry of limitation for filing written statement. However, defendant no.1 has made out sufficient cause which prevented him from filing w.s. on time. His application is supported by affidavit. Therefore, he has made out sufficient and justifiable cause. Apart from it, to adjudicate matter on merit, it is just and necessary to grant fair opportunity to defendant no.1 to file his w.s.. It will help the Court to decide the matter

on merit. Therefore, I am inclined to grant permission to defendant no.1 to file his w.s..on record. As far as delay caused, it will be proper to impose cost. In turn, I pass following order.

ORDER

1) Application below Exh. 32 is allowed.

2) The formal order of No.W.S. against defendant no.1 is set aside subject to cost of Rs.300/- (Rs.Three Hundred) to be paid to the plaintiff.

3) W.S. of defendant no.1 shall be read and recorded after payment of cost.

Tasgaon
Date : 11/11/2022

(D. A. Darveshi)
2rd Joint Civil Judge J. D., Tasgaon.

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 : N.P. Kulkarni (Grade-III)

Court Name : 2nd Jt. C.J.J.D. & J.M.F.C., Tasgaon.

Date of judgment/order :11.11.2022

Judgment/Order signed by the

Presiding Officer on :11.11.2022

Judgment/Order uploaded on :11.11.2022