

Order Below Exhibit 21 in Reg.C.S.No.113/2016

(CNR-MHSN09-000665-2016)

1] Defendant Nos.1 to 5 have filed this application to set aside the No W.S. order passed against them. It is their contention that, they could not get old documents from the concerned department in time, therefore, they failed to file their WS in time. Their W.S. is necessary to come on record otherwise they will suffer irreparable loss. Hence, they prayed to allow the application and set aside the No W.S. order passed against them. Plaintiff has filed his say on that application and submitted to due order may be passed.

2] Perused the matter on record. The present suit is for perpetual injunction and declaration in which question of landed property is involved. However, needless to mention the Cardinal Principle of Law that the procedure obstacles ought not to implead dispensation of justice. Opportunity to file W.S. cannot be refused to defendant Nos.1 to 5 merely on account of technicalities and procedure of obstacles. Opportunity to defend the suit as discussed earlier is essential for deciding the real controversy between the parties at once on merit. Moreover, plaintiff has no objection to set aside the No W.S. order. Therefore, no prejudice would be caused to the plaintiff if an opportunity is given to the defendants. On the contrary, it will help the court to adjudicate the real controversy between the parties finally on merit. Hence, the following order.

- ORDER -

- 1] Application is allowed.
- 2] No W.S. Order passed against defendant Nos.1 to 5 is hereby set aside subject to cost of Rs.100/- paid to the Plaintiff.
- 3] Defendant Nos.1 to 5 allowed to file their W.S. on record.

Sd/-xxx

Tasgaon.

Date 06.03.2018.

(Sou.T.S. Mahadik)

2nd Jt.Civil Judge, Jr.Dn.,**Tasgaon.**