

Order below Exh.26 in R.C.S.No.136/2017

[Dinkar Daji Madane v/s. Manisha Sayaji Patil & Ors.]

[CNR-MHSN090009052017]

The present application is filed by defendant no.1 to 3 for setting aside No.W.S. order passed against them.

2. By filing present application it is submitted by the defendants that, the defendants appeared in the present matter, but there was compromise talk going on between the parties. Also due to pandemic situation of Covid-19 they could not file their written-statement within the stipulated period of limitation, therefore, No.W.S. order was passed against them. The present suit is filed for recovery of encroached portion. Therefore, the No.W.S. order passed against them may be set aside and permission may be granted to file their written-statement.

3. On the other hand the Ld.Advocate for the plaintiff filed his say and submitted that, the contents of the application are false. He further submitted that, the defendants intentionally did not file their written statement within the prescribed period of limitation. The reasons mentioned in the application are false. Hence, application may be rejected. In the alternatively, it is prayed that if Court comes to the conclusion to allow the present application then the application may be allowed subject to heavy costs.

4. Heard both sides. Perused record. After perusal of record it is seen that, the present suit is filed for recovery of

encroached portion. The record shows that No.W.S. order passed against the present defendant no.1 and 2 on 08.11.2019 and against defendant no.3 on 15.06.2022. Therefore, considering the nature of suit, I am of the opinion that, it is necessary to give an opportunity to the defendants to file their written statement in order to contest the suit and for that purpose it is necessary to allow the present application. While allowing the present application it is necessary to saddle costs on the defendants as eventhough, they appeared in the present suit, but did not file their written-statement within the period of limitation. It shows that they were not diligent. Therefore, considering the conduct of defendants, I proceed to pass following order.

ORDER

1. Application is allowed.
2. No.W.S. order passed against defendant no.1 and 2 dated 08.11.2019 and against defendant no.3 dated 15.06.2022 is hereby set aside subject to costs of Rs.300/- (Rs.Three Hundred).
3. Amount of costs be credited to the Government.

TASGAON.
Date : 21.09.2022

(Omprakash M.Mali)
Civil Judge Jr.Dn.,
TASGAON.

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

Name of the Stenographer	:	U.P.Patil
Court	:	Civil Judge Jr.Dn. and Judicial Magistrate F.C., Tasgaon.
Date	:	21.09.2022
Order signed by the Presiding officer on	:	21.09.2022
Order uploaded on	:	21.09.2022