

ORDER BELOW APPLICATION VIDE EXH.280 IN R.C.S.No.46/2008
(Dastagir V/s Mohan and ors.)

1] Defendant no.3 has filed present application to set aside No W.S. order passed against him.

2] It is the contention of the defendant no.3 that, defendant no.3 is ladies and suffering from the decease so she could not approach before the Court. Due to above mentioned reasons defendant could not filed his written statement. The Court has passed no WS order. Hence, prayed to allow the application.

3] Plaintiff has filed say overleaf the application and resisted the same. It is submitted by the plaintiff that, false application is filed and contentions are denied in toto. The application is not supported by any documentary evidence. The application is filed to delay the proceedings. Their is long delay. Hence prayed to reject application with cost.

4] Heard the both advocates. Considering the contentions, following points arise for my consideration and I have recorded my findings thereon along with the reasons as below:

Sr.No.	Points	Findings
1]	Whether No W.S. order passed against defendant is liable to be set aside ?	Yes
2]	What order ?	As per final order...

REASONS:

5] It is settled law that, the written statement has to be filed within 30 days and within 60 days with the permission of the Court. The record shows that defendant appeared through advocate on 07/08/2008. It was expected to file written statement by defendant on or before November 2008. The present application is filed on 03.04.2024. There is

approximately delay of 15 years and 7 months to file written statement.

6] On perusal of the application the defendant no.3 has not filed any documentary evidence to support her contention in the application. The suit is filed for declaration and injunction. The valuable rights of defendant is involved in the suit property. Considering the principles of fair trial and in the interest of justice the application would be consider by imposing reasonable cost upon the defendant no.3 to meet the justice. Considering the delay, imposing reasonable cost of Rs.1000/- would be just and proper. Hence, I answer point no.1 in the affirmative and in result of point No.2 I pass following order:

:: ORDER ::

1. The application vide Exh.280 is allowed on cost of Rs.1000/- (Rs. One Thousand Only) to be given to the plaintiff on or before next date.
2. Cost in Cause.

[Dictated and pronounced in the open Court.]

Date: 26.06.2024

(R. B. Kulkarni)
Jt. Civil Judge Junior Division, Atpadi.

Certificate

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

Name of the Stenographer - A. A. Jamadar
Court - Jt. CJJD and JMFC, Atpadi.
Date - 14.06.2024
Order signed by the
Presiding Officer on - 14.06.2024
Order uploaded on - 14.06.2024

Endorsement

Case argued on	:	08.02.2023
Order dictated on	:	08.02.2023
Transcription ready on	:	08.02.2023
Order checked and signed on	:	08.02.2023

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Certificate

I affirm that the contents of this PDF order are same word to word, as per the original order.

Name of Stenographer :- S. A. Misal