

Order below Exhibit. 39 in Regular Civil Suit no. 30/2021

- 1) The present application is filed by the defendant nos.1, 3 to 5 to set aside 'No Written Statement' order passed against them.
- 2) The defendant nos.1, 3 to 5 contended that the requisite documents required to file written statement were not available to them. Hence they could not file their written statement within the stipulated time. Hence prayed to allow the application.
- 3) The plaintiff resisted the application contending that the reason mentioned in the application is not true. The defendant nos.1, 3 to 5 deliberately delayed the matter. Hence prayed to reject the application.
- 4) Perused the record. It appears that, the plaintiff has filed the suit for permanent and mandatory injunction. The suit summons were served to defendant nos.1, 3 to 5 on 23.02.2021. But no written statement is filed within given time due to non-availability of necessary documents. But considering the nature of suit, the defendant nos.1, 3 to 5 could not be allowed to go undefended. An opportunity needs to be given to the defendant nos. 1, 3 to 5 to put forth their defence in the interests of justice which will ultimately help in adjudicating the matter on merit. However the hardship suffered by the plaintiff can be compensated by imposing cost on the defendant nos.1, 3 to 5. Accordingly, the following order is passed :

ORDER

- 1) The application is allowed.
- 2) The 'No Written Statement' order passed against the defendant nos.1, 3 to 5 on plaint (Exh.1) is hereby set aside subject to payment of costs of Rs.1000/- (Rs. One Thousand only) to be paid by the defendant nos.1, 3 to 5 to the plaintiff on or before next date.

Kadegaon
Date : 06.11.2024

(D.S.Sharma)
Civil Judge, (J.D) Kadegaon
Dist. Sangli.