

ORDER BELOW EXHIBIT-40 IN R.C.S.No.177 of 2014

Defendant No. 2 has filed the present application to set aside no written statement order.

2. It is asserted that, summons for defendant No. 2 was published in daily news paper "Pudhari" on 05/10/2016. Thereafter, on 03/02/2017 court passed ex-parte order against defendant No. 2 and on 05/09/2018 no W.S. order was passed by my learned predecessor. Defendant No. 2 is working in a private company and daily news paper "Pudhari" was not available for reading in their place of abode summons could not be served on him. Due to which, they could not appear and filed written statement. Hence, prayed for setting aside the no W.S. order passed against him.

3. Plaintiffs filed the say on the said application and stated that, the reason mentioned in the application is not legal and proper. It is further contended that, defendant has intentionally avoiding serving of summons. The summons was served on the address mentioned in the sale deed and mentioned in the suit. He has managed the report of bailiff. Due to which, plaintiff was forced to publish in the news paper. Hence, prayed for rejection of the application and in the alternative prayed for cost of Rs. 10,000/-.

4. Perused the application and say. It reveals that, plaintiff has followed the procedure for effecting the service of summons on defendant No. 2. Despite sending the summons on both the addresses it was not served. But, considering the fact that, written statement of defendant No. 2 is necessary to decide the suit on merit opportunity must be given to file the written statement subject to reasonable costs. Considering the above facts, I pass the following order :

ORDER

1. Application is allowed.
2. Ex-parte order and no written statement order passed is

hereby set aside, defendant is permitted to file his written statement on record subject to cost of Rs.500/- be paid to the plaintiff.

Date : 23/02/2021.

(J. A. Zari)
Jt. Civil Judge (J.D.),
Barshi.

C E R T I F I C A T E

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment / Order

(a)	Name of the Stenographer	:	B.B.Salvade
(b)	Court	:	J.A.Zari, Jt.C.J.J.D.&J.M.F.C. Barshi.
(c)	Judgment /Order signed by P.O. on	:	23/02/2021
(d)	Judgment /Order uploaded on	:	24/02/2021