

Order Below Exh.23 In R.C.S. No. 04/2023.
(Kamalabai Maruti Desai and ors. v. Apanna Maruti Desai and ors.)

Defendants have filed present application for setting aside 'no written statement' order passed against them.

02. Defendants contended that, they were trying to amicably settle the dispute with plaintiffs. Hence, they could not collect necessary documents for filing written statement within stipulated period. Thus, due to above mentioned justifiable ground and unavoidable circumstances, they could not file their written statement within prescribed period. They further contended that, their written statement is necessary for the just decision of the suit. Hence, their written statement may be taken on record. Therefore, they prayed that, the application may be allowed.

03. Plaintiffs have strongly resisted present application by filing their say on overleaf of the present application. It is contended that, the application is devoid of merits. Hence, they prayed that, the application may be rejected. Plaintiffs have alternatively prayed that, if the Court comes to the conclusion to allow present application, same may be allowed subject to heavy cost.

04. Heard learned advocates for both parties at length. They have argued in consonance of their pleadings.

05. On perusal of record and proceeding it appears that, this is a suit for permanent injunction. It shows that, in spite of ample opportunities being given, defendants failed to file their written statement within stipulated period of time. Hence, as per order passed below Exh.1 dated 03.07.2023, the suit proceeded further without written statement of defendants. However, considering reasons mentioned in the application and submissions of both learned advocates as well as considering nature of the suit and interest of parties involved in suit properties, it would be just and proper to give opportunity to defendants to contest the suit on merit

by filing on record their written statement. Defendants have filed this application after considerable lapse of time. However, the delay caused by defendants can be compensated by imposing cost upon them. Considering the delay caused by defendants, it would be just and proper to impose total cost of Rs.300/- on defendants, which shall be payable to the plaintiff. Resultantly, I pass following order :-

:: ORDER ::

1. Application (Exh.23) is hereby allowed subject to costs of Rs. 300/- (Rupees Three Hundred Only) payable to the plaintiff.
2. Payment of cost shall be condition precedent for taking on record written statement of defendants.
3. Accordingly, application (Exh.23) is disposed of.

(Dictated and pronounced in the Open Court).

Date: 08.09.2023.

(Balasaheb S. Gaikwad)
Civil Judge, Junior Division,
Akkalkot.

C E R T I F I C A T E

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

Name of the Stenographer : Mrs. A.S.Magnur (Grade-III).
Court : C.J.J.D and Judicial Magistrate
First Class, Akkalkot.
Date : 08.09.2023.
Judgment / Order signed by P. O. on : 08.09.2023.
Judgment / Order uploaded on : 08.09.2023.