

ORDER BELOW EXH. 38 IN Spl.C.S.No. 11/2017

01. The defendant no. 2 has filed this application for setting aside no written statement order and permitting him to file the written statement.

02. The defendant no. 2 contended that the plaintiffs have filed this suit against the defendants for declaration that the sale deed is not binding on them and cancellation of the sale deed and also for injunction. The defendant no. 2 could not file the written statement. There were talking as regards to compromise terms between them, therefore, the defendant no. 2 could not file the written statement. The defendant no. 2 is ready to file the written statement now and the same may be allowed. The defendant no. 2 is a private company. The defendant no. 2 could not get the information about the parties. The defendant no. 2 is filing this written statement as soon as the defendant no. 2 got the information. The no written statement order is required to be set aside and the written statement filed by the defendant no.2 be accepted.

03. The say of the other side came to be invited. The plaintiffs submitted that the application is false and concocted. The Court has passed the no written statement order on 08.09.2017. The issues were framed and trial has been commenced. There was no talking process on the point of compromise between the parties. The defendant no. 2 is going to file the written statement after 5 years. The delay is more and the application is liable to be rejected. In case of granting the application the costs of Rs.25,000/- be imposed.

04. In this case, the defendant no.2 has applied for setting aside no written statement order and he is also praying for grant of permission to file the written statement. Perusal of the case papers show that the defendant no. 2 is one company and there is delay of 5 years in filing the written statement. The defendant no. 1 has already filed the written statement. The defendant no. 2 is one public company and it is always hard for corporate body to move fast in Court litigation like a natural

person. Moreover, there was Corona lock down from the year 2020 to 2021. The Corona period occupied the complete span of 2 years. The defendant no.2 is ready to file the written statement and same is required to be allowed in view of equal opportunities to both the sides. If the application is allowed then no prejudice would be caused to anybody. If it is disallowed then the defendant no. 2 would be prejudiced. For the complete adjudication the written statement of defendant no. 2 is required to be filed on record.

05. It is true that there is delay of 5 years in filing written statement. The delay definitely caused prejudice to the other side. The errant party is required to be penalized by imposing the costs. The plaintiffs' side has prayed for the costs of Rs.25,000/-. The demand / prayer of the plaintiffs regarding the costs is somewhat exorbitant. In view of the application, reply, circumstances of the case, Corona lock down period etc. the costs of Rs. 1500/- would be sufficient. Having regard to the above said reasons I am of the view that no written statement order is required to be set aside and the defendant no. 2 is required to be permitted to file the written statement. In view of above said reasons I am inclined to pass following order resulting in grant of application.

ORDER

1. The application is hereby allowed.
2. The no written statement order passed below Exh. 1 is hereby set aside and the defendant no. 2 is permitted to file the written statement.
3. The defendant no. 2 is hereby directed to pay Rs.1500/- to the plaintiffs as costs and payment of costs will be condition precedent for taking the written statement on record.

Karad.
Date- 22.07.2022

(V. S. Khot)
Civil Judge Senior Division, Karad.