

ORDER BELOW EXH. 152 IN R.C.S. NO. 44/2009

This is an application filed by the advocate for defendants no. 3A to 3D for setting aside no written statement order deemed to be passed against them.

2. It is contention in the application that owing to non availability of requisite documents and ignorance of law the defendants could not give information to their advocate and did not file their written statement within prescribed time. If they are not allowed to produce their written statement it will cause irreparable loss to them. Hence, they prayed to allow the application. The learned advocate for the plaintiff filed his say on the overleaf of the application and objected the application on the ground that no just and proper reason mentioned in the application. In order to prolong the suit the application is filed. Hence, he prayed to reject the application.

3. Heard both sides. Perused record and proceeding. On perusal of the same it appears that suit summons were duly served on defendants and they appeared in the suit on 02.09.2022. As per order VIII, Rule 1 of the Code of Civil Procedure the defendant has to file his written statement within 30 days from the date of service of suit summons. However, in spite of sufficient opportunities defendants no. 3A to 3D have not filed their written statement within prescribed period of time. Therefore, by passing order dated 13.12.2022 below Exh. 1 the suit is proceeded no written statement against the defendants.

4. The defendants have filed the application on 09.02.2024. The grounds mentioned in the application are not just and proper. Because no material in support of the application is filed on record. Be that as it may, to decide the suit on merits it is necessary to allow the defendants to file their written statement on record. Further, there

would be no loss to the plaintiff if the defendants are allowed to file their written statement. At the same time delay caused by the defendants cannot be brushed aside. So, I am going to impose cost on them.

5. Considering all above aspects, in the interest of justice the application deserves to be allowed. Hence, I pass following order.

ORDER

1. The application is allowed subject to cost of Rs.200/- to be paid to the plaintiff by the defendants.
2. No written statement order dated 13.12.2022 passed against the defendants is hereby set-aside.
3. The defendants to pay cost on or before next date.
4. On payment of cost necessary order be passed below Exh. 1.

Patan
Dt. 20.02.2024

(P. D. Bhirde)
2nd Jt. Civil Judge, J.D., Patan.