

ORDER BELOW EXH. 18 IN R.C.S. NO. 319/2022.

This is an application moved by defendant Nos. 1 to 4 for setting aside no written statement order passed against them. The application is supported by affidavit. Say of plaintiff was called thereon.

2. It is contended that, unavailability of documents, they have precluded from filing their written statement within limitation. If the application is not allowed then, it will cause prejudice to them. Whereas, no such prejudice would be caused to the plaintiff. Hence, they prayed to allow the application. Whereas, the plaintiff has objected the application and stated that, no justifiable reasons put forth in the application. Hence, he prayed to reject the application with heavy costs.

3. Perused the application, say and record. Heard both sides. Record shows that, the defendants have not filed W.S. within statutory period. Therefore, no W.S. order was passed against them. The suit is at initial stage. This being a trial Court, opportunity needs to be given to the defendants for filing their W.S. so as to decide the suit on its merits. No prejudice would be caused to the plaintiff, if the permission is granted. On the other hand, if the permission is not granted, serious prejudice would be caused to the defendants. Therefore, the application is required to be allowed. But, at the same time, there is delay caused by defendants, which needs to be compensated in terms of necessary costs. Hence, following order.

-: ORDER :-

1. No written statement order passed against defendant Nos. 1 to 4 is set aside subject to costs

... 2 ...

of Rs. 200/- each, to be paid by the defendant Nos. 1 to 4 to the plaintiff on or before next date.

2. The payment of costs is a *pre-condition* to take the written statement on record.

Place : Patan.
Date :- 27/06/2023.

(P. S. Girgaonkar)
Civil Judge (Jr. Div.), Patan