

Reg. Civil Suit No. 154/2018
Balkrushna & ors. Vs. Kondiaba & ors.

Order Below Exh. 38
(Passed on 21st February, 2023)

This is an application filed by the defendant No.1 to 6 & 8 for setting aside No WS order passed against them. They contended that as there is delay in filing their written statement within stipulated time period, without written statement order came to be passed against them. The defendants filed application under Order 7 Rule 11 of the Civil Procedure Code and therefore, the written statement could not be filed. Even meanwhile, there was Covid 19 Pandemic. For all these reasons, the written statement could not be filed. The son of defendant No.4 is having kidney disease and therefore, the defendants have to visit Dinanath Mangeshkar Hospital, Pune for his treatment. For all these reasons, he prayed to allow the application.

2. Perused the application and say along with the entire record. It is a matter of record that the suit is being proceeded without written statement of the defendants vide order passed below Exh.1 on 06.02.2021. This is a suit for possession of the suit property. As per the submission of defendants, the suit is hit by the law of limitation and therefore, they have to be given fair opportunity to contest it. Having regard to this facts and circumstances, the present application deserves to be allowed. So far as the delay is concerned the same can be compensated by imposing certain amount of cost. Hence, the order:

ORDER

1. The application (Exh.38) is hereby allowed subject to payment of cost of Rs. 500/- (Rupees Five Hundred Only) payable to the plaintiff.
2. On payment of cost as above, the written statement filed by the defendants be taken on record.
(Dictated and Pronounced in open court.)

Date : 21.02.2023

(R.M. Bhende)
2nd Jt. Civil Judge Jr. Dn. Wai.

CERTIFICATE

“ I certify that this Order uploaded is a true and correct copy of original signed Order”.

Order dictated on : 21.02.2023.

Order checked and signed on : 21.02.2023.

Uploaded by : S. S. Kumbhar.
Stenographer (Grade-III)

Uploaded on : 21.02.2023.