

R. C.S. No. 171/2023
Sanjay Vs. Ankush & Ors.

ORDER BELOW EXH. 41

Read an application and the reply filed by the plaintiff. Perused the record. Heard the learned counsel for defendant no. 4 Adv. Shri. P. S. Godse. The learned counsel for the plaintiff Adv. Shri. S.A. Jadhav are absent when called.

2. Defendant No. 4 filed this instant application and submitted that, he appeared through his counsel, but he could not file the written statement within the period of limitation on the ground that, the required documents was not available in his hand. Now, defendant no. 4 want to file the written statement and therefore, prayed to set aside no written statement order and grant permission to file written statement.

On the contrary, the plaintiff opposed to this application on the ground that, the reason mentioned in the application is not justified.

3. On perusal of the record, it appears that, the suit summons served to defendant No. 4 on 06.07.2023 vide bailiff report at Exh. 24. Defendant no. 4 appeared through his counsel on 17.08.2023, as per the Vakalatnama at Exh.28. He filed the instant application on 10.07.2024. Defendant no. 4 was required to file the written statement within 30 days from the date of service of summon i.e. up to 06.08.2023. There is delay near about more than ten

months to file the written statement. The reason mentioned in the application is not appears to be justified. However, on the other hand, it is necessary to grant an opportunity to defendant no. 4 to file the written statement and to contest this suit. Defendant no. 4 is liable to pay cost. Accordingly, I proceed to pass the following order.

ORDER

1. The application is allowed.
2. 'No written statement' order against defendant no. 4 dated 05.02.2024, is set aside subject to cost of Rs. 500/- payable by defendant no. 4 to the plaintiff.
3. Defendant no. 4 is permitted to file the written statement till next date, otherwise this application shall automatically stands rejected.
4. Both the parties are directed to take note of it.

Vaduj
Date: 13.11.2024

(D.D. Fulzele)
Civil Judge Sr.Dn., Vaduj