

ORDER BELOW EX. 12

This is an application filed by defendants no. 1 & 2 under order IX, rule 7 of the Code of Civil Procedure for setting aside no W.S. order passed below Exh. 1 on 01.08.2024.

2] On perusal of the record, it shows that the summons was duly served to defendants on 02.05.2024. However, they appeared along-with their Counsel and seek time for submitting their written statement. Despite grant of sufficient opportunity. They remained absent and does not submit their written statement. The case was proceeded further without written statement of defendants by passing the impugned order.

3] Defendants prayed by filing this application to set aside the no W.S. order and permit them to submit their written statement. For seeking such relief, defendants should have show good cause for their previous non-appearance and not filing the written statement within stipulated time. On perusal of the application, it appears that they stated in the application that necessary information and documents regarding subject matter was not produced by defendants to their Ld. Counsel due to which they failed to submit their written statement within stipulated time. This reason itself is not sufficient to satisfy for non-appearance and failing to submit their written statement within time. Mere oral submission of the defendants can not be considered to be good cause for their previous non-appearance and not filing the written statement within stipulated time. However, as the plaintiff has make formal objection and claimed for the costs.

3] However, it is required to give proper chance to the defendants to bring facts on record. It will be just and proper to grant proper opportunity to the defendants for submitting their written statement. The defendants are ready to submit written statement instantly without taking any further time. However, imposing costs for cause of delay would be compensated to the plaintiff. Hence, in order to fair trial and in the interest of justice. Application deserves to allow. Hence following order.

ORDER

- 1) The application Exh.12 is allowed, subject to costs of Rs.1,000/-.
- 2) The no W. S. order dated 01.08.2024 hereby set aside. The written statement of defendants be taken on record after payment of costs.

Place – Seloo

Date – 08.10.2024.

[S. W. Shegokar]
Jt. Civil Judge Jr. Division,
Seloo