

MHWS020002222017



ORDER PASSED BELOW EXH.49 IN R.C.S. NO.68/2017

(Shrihari Dattatraya Naik Vs. State Of Maharashtra Trough Collector & Ors.)

The present application is filed by plaintiff for setting-aside dismissal order passed below Exh.1 on 28/07/2023. As per the plaintiff he is unable contact with his advocate and his advocate failed to advance argument on Exh.5. So, case is fixed for dismissal order. Accordingly, plaintiff prayed for setting-aside dismissal order. The defendants have resisted the application and prayed for rejection of application contending that, reasons are not satisfactorily and application is filed to prolong the matter. Perused the application and say filed thereon.

2. I have heard learned advocates for both sides at considerable length, and have gone through record of the suit.

3. Admittedly, the suit is kept for dismissal as per order passed below Exh.1 dated 28/07/2023 as the plaintiff failed to advance argument on Exh.5. Plaintiff has shown his willingness to argue on application for temporary injunction (Exh.5). Considering the reasons mentioned in the application, in the interest of justice, it will be proper to allow the present application in order to avoid technical difficulties and unnecessary harassment to the parties, to prevent the multiplicity of proceeding and for just decision of case

on merit. Furthermore, no prejudice would occasion to the defendant, if the application is allowed. As far as question of delay is concerned it can be compensated by awarding costs to the defendant. In the result, following order is passed:

ORDER

- 1) Application at Exh.49 is allowed subject to costs of Rs.500/- (Rs. Five Hundred Only) and dismissal order passed against plaintiffs below Exh.1 is set- aside.
- 2) Plaintiff is permitted to advance argument on Exh.5.
- 3) The case be fixed for argument on Exh.5.

Date: 02/05/2024.

(G.M. Charankar)
Jt.Civil Judge Senior Division,
Washim

CERTIFICATE

I affirm that the contents of this PDF file Order are same word to word, as per original Order.

- 1) Name of Stenographer :- N.F.Syed (Stenographer, Grade-III
- 2) Name of Court :- Jt. Civil Judge (S.D.), Washim.
- 3) Date of order :- 02/05/2024
- 4) Order signed by the :- 02/05/2024
presiding officer on
- 5) Order uploaded on :- 02/05/2024