

MHWS100005902021



ORDER BELOW EXH.17 IN RCS NO.21 OF 2021

Pramod Sitaram Ingale Vs. Taramati Sampat Bhise
Passed on 09th January, 2024

1. This is an application filed by defendant Nos.3 and 4 for setting aside no written statement order dated 06.08.2021 passed against them.
2. The plaintiff by filing say overleaf of the application and opposed the application. He further stated that this application is not within limitation and no sufficient ground for set aside the present application. Hence, if application is allowed then heavy costs be imposed upon them.
3. Heard, Ld. Advocate for defendant Nos.3 and 4 and Ld. Advocate for the plaintiff. They have submitted their argument as per the application and say respectively.
4. Perused the record, application, say and proceeding.
5. It is contended in the application that, defendant No.4 appeared before the Court on 23.06.2021 but they have not filed their written statement within stipulated period. They have further submitted that, it is necessary to set aside the order and permission is necessary to grant an opportunity to submit their defence. Hence, they have prayed for setting aside no written statement order passed against them and permit to submit their written statement.
7. It is admitted fact that defendant No.4 has not filed written statement within 90 days from service of summons to them as stipulated in Order VII, Rule 1 of CPC. Therefore, it is deemed no written statement order. On perusal of record it appears that, suit property is situated at village Jaulka, Tq. Malegaon Dist. Washim. The suit pertains to immovable

property. Therefore, reasons mentioned in present application are found bona-fide. Thus, it is necessary to grant the opportunity to submit their written statement. Delay caused by the defendant No.4 can be compensated by imposing costs on him. Considering the circumstances, it is necessary to allow defendant No.4 to file written statement for deciding real dispute in the suit on merit. The apprehension of the plaintiff can be cured by imposing condition. On perusal of record it appears that, this application is filed by defendant Nos.3 and 4. But on perusal of record it reveals that there is no *Vakalatnama* of defendant No.3. But, he has filed his memo of appearance at Exh.15 and registered address at Exh.16. Today, the Ld. Advocate for defendant No.3 again filed *Vakalatnama* of defendant Nos.3 and 4. It is taken on record. As no adverse order has been passed against defendant No.3. Thus, the *Vakalatnama* of defendant No.3 filed by Advocate Shri.S.G.Gaikwad is accepted and permission is granted to file his written statement. Hence, I pass the following order :-

ORDER

1. No written statement order passed against defendant No.4 is hereby set-aside subject to costs of Rs.300/- (only Three Hundred Rupees) payable to the plaintiff and permission is granted to defendant No.3 to file his written statement.
2. Costs is condition precedent.
(Dictated and pronounced in open Court).

Place : Malegaon
Date : 09.01.2024

[Pravin U. Kulkarni]
Jt. Civil Judge (J.D.) Malegaon
Dist. Washim

CERTIFICATE

I affirm that the contents of this P.D.F. file Order is same word to word, as per the original Order.

Name of the Stenographer : **Shivam B. Patange (L.G.)**

Court & Judge Name : P.U.Kulkarni,
Jt. C.J.J.D and J.M.F.C, Malegaon.

Date of Order : 09.01.2024

Order signed by the
Presiding Officer on : 09.01.2024

Order uploaded on : 09.01.2024