

ORDER BELOW EXH.18 IN R.C.S.NO.65/2018

(Passed on 21th September 2019)

- 1] Defendant nos.2 to 4 have filed present application with a prayer of condonation of delay to file W.S. and to set-aside No W.S. order .
- 2] Perused application, say of the plaintiffs and records of the suit.
- 3] Heard, learned advocates for defendants and plaintiffs.
- 4] After going through all above, it is clear that defendants have put-forth the reason of nonavailability of documents in support of present application.
- 5] On perusal of the record, it is clear that prior to filing of present application, the suit was pending for steps. It means, the suit is not yet commenced. From present application, it is clear that defendants want to contest present suit by putting their written statement on record. It is admitted fact that the documents in regard of reasons put-forth by defendants are not filed on record. It was possible for them to file the same on record, but for the reasons best known to themselves, the said exercise is not carried on.
- 6] The present suit is for recovery. The valuable rights of the parties are involved in the present suit. Considering the stage of the suit, the plaintiff will not suffer any loss if the present application is allowed. In regard of legal mandate of filing written statement within 90 days, it is well settled in catena of cases that the said provision is not mandatory, but directory in nature. Considering all the facts and circumstances and interest of the justice, the defence of defendants is required to be taken on record. By doing so, the help will be advanced while deciding the real controversies between the parties. But, here the delay of more than seven months caused by defendants is required to be considered and the said delay is required to be compensated in terms of costs. As a result, following order is passed :-

ORDER

- 1] Present application is allowed subject to costs of Rs.500/- (Rs.Five Hundreds only)
- 2] Plaintiffs are entitled to receive the costs.
- 3] After payment of the costs, the written statement shall be taken on record.

Place : Malegaon.
Date : 21.09.2019

SD/-
(S. M. Bohara)
Jt. Civil Judge Jr.Dn, Malegaon.

CERTIFICATE

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

Name of the Stenographer	:	S.B.Morey, Stenographer (L.G.)
Name of Court	:	Joint Civil Judge, [Jr.Divn.] & Judicial Magistrate, First Class, Malegaon, Dist. Washim.
Date:	:	21/09/2019.
Order signed by the Presiding Officer on	:	21/09/2019.
Order uploaded on	:	23/09/2019.