

T.S. 73/2022

Order no. 32

Dt.18.05.2023

1. Both parties file hazira.
2. Today is fixed for hearing of Show cause petition and for acceptance of w/s and setting aside exparte order against defendant no.3-5.
3. Accordingly the petitions are taken up for hearing in presence of both sides
4. Heard both sides. Perused the materials on record. Considered.
5. The defendants appeared in this suit on 26.11.2018, for the first time, but they had failed to file w/s within the statutory period, accordingly the suit started proceeding ex parte against the defendant since 12.12.2022.
6. Written statement is filed by the defendant is on 02.05.2023 alongwith aforesaid petitions. The cause shown by the defendant is that the defendants could not take steps during 2020-2021 due to the pandemic and the defendant was under conception that 02.05.2023 was fixed for filing W/S and that he was not aware of the fact that the suit is proceeding exparte against them. So it was not possible for Ld. Advocate for the defendants to file W/s on time. Thus, the said delay is unintentional on their part. The defendant therefore prayed for acceptance of w/s and accepting show cause .
7. The delay on the part of the defendant is beyond statutory period and long period of more than four years have already expired since the date of appearance of the defendants and also exparte evidence is also started in this case therefore filing of W/s after expiry of such statutory period for filing W/S needs to be explained by showing sufficient cause by the defendant.
8. For the greater ends of justice, this Court is of the view that the defendant should be given an opportunity to contest the suit as he has shown due diligence on his part. However he need to compensate the plaintiff for this delay. The cause shown by the defendant is found to be sufficient and s/c is accepted.
9. Hence, it is

**Ordered,**

10. that the W/S filed by the defendant is accepted subject to payment of cost of Rs. 600/-. Exparte order dated 12.12.2022 is hereby set aside.
11. Reply to S/c is also accepted.
12. The petition for acceptance of W/S is allowed with cost.
13. To 04.07.2023 for payment of cost of Rs. 600/-, acceptance of W/s and framing of issues  
T/C by me.

**Sd/- Riha Trivedi**  
**Civil Judge (Jr. Div.)**  
**Additional Court, Garhbeta**

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