

Special Civil Suit No.451/2017

Order below Exh.30

By this application defendant no.5 sought for setting aside 'ex-parte' order.

2. It is submitted that previously present proceeding was Regular Civil Suit and thereafter it converted into Special Civil Suit on 11/12/2017. He is residing at Nagpur and due to domestic problems, it is not possible for him to come Nashik frequently. Therefore, much time passed in preparing the written statement and meanwhile 'ex-parte' order against him get passed. The said delay is not intentional. Hence, he prayed for setting aside 'ex-parte' order.

3. Plaintiffs inter se resist the application contending therein that defendant did not appear even after issuance of summons and therefore 'ex-parte' order get passed against him. Defendant has not filed written statement with intention to protract the proceeding. Hence, prayed for rejection of application.

4. Heard learned counsel for plaintiff and defendant. Perusal of the entire proceeding depicts that suit is for declaration and injunction. If opportunity not given to the defendants at this juncture it will create multiplicity of proceedings. Hence, considering the ground mentioned therein and the principle of natural justice, it is just and proper to set aside 'no written statement' order to meet the end of justice. Hence, the order.

Order

1. The application is hereby allowed .
2. 'Ex-parte' order dated 19/11/2015 against defendant no.5 is hereby set aside.
3. Counsel for the both the parties take note.

Place: Nashik
Date: 12/07/2018

sd/xxx
(P.V. Hingne)
10th Jt. Civil Judge (S.D.)
Nashik.