

ORDER BELOW EXH.43
(MHAH08000525-2022)

This is an application filed on behalf of defendant No.2, 3, 10, 15, 18, 27 and 28 for setting aside no written statement order passed against him below Plaint (Exh.1) on 30.08.2024 and permission to submit written statement on their behalf in answer to plaint (Exh.1). They submit that, they doing labour work and used to reside out of station for livelihood. The considerable time consumed for preparation of written statement on account of collection of necessary measurement documents arising out of MR No.7192/2021 and 7193/2021. Delay caused to that effect was not intentional on their part. Hence, they urged to allow application.

2. The plaintiffs have opposed application by filing say through their advocate on leaflet itself. They submit that, these defendants have made appearance in the suit on 20.04.2022. There is about two years and nine months delay caused. These defendants have not given sufficient reason as to why delay caused. The grounds set out in the application are false and fabricated. As such, they have urged to reject application or in alternative prayed for imposing heavy costs, if the application is allowed.

3. Heard the learned advocates for both sides. I have gone through the record of the case, minutely. The contents of application are supported by an affidavit of defendant No.15 viz., Bhaskar Mahadu Lohale vide Exh.44. The written statement proposed to be placed on record, is enclosed with the application itself. Record shows that, there is considerable delay on the part of these defendants for submitting written statement, as mentioned by the plaintiffs in their say. Actually, no written statement order came to be passed against applicant/defendant No.2, 3, 10, 15 and 18 only and exparte order came to be passed against applicant/defendant

Nos.27 and 28 below plaint (Exh.1) on 30.08.2024. Accordingly, these defendants ought to have sought relief of setting aside "without Written Statement" and "Ex-Parte" order passed against them respectively.

4. It is well settled that, technical aspect will not have much importance while dealing with such application. These applicants have shown their willingness to participate in the proceeding. The subject matter of the suit are agricultural landed properties situated at village Chanegaon, Tal. Sangamner, Dist. Ahmednagar, more particularly as described in paragraph No.1 of the plaint (Exh.1). If the application is allowed, it will be helpful for just decision of the case on merit. It will not cause prejudice to the plaintiffs, if the costs saddled against these defendants.

5. In view of foregoing discussion, the application will have to be allowed with costs. In the result, I pass following order -

ORDER

1. Application (Exh.43) is allowed.
2. Without written statement order passed against defendant Nos.2, 3, 10, 15 & 18 and ex-parte order passed against defendant Nos.27 and 28 below plaint (Exh.1) on 30.08.2024 be set aside and they be permitted to submit written statement, subject to costs of Rs.2,000/- payable to the plaintiffs.

Date : 21/11/2024.

(S. S. Budruk)
Civil Judge S. D.,
Sangamner.