

**REGULAR CIVIL SUIT NO.531/2022**  
**ORDER PASSED BELOW EXHIBIT NO.21**

MHAH140006862022



Defendant No.1 to 5 has filed this application for setting aside “no written statement” order passed against them and for permission to file their written statement on record.

2. By this application, defendant No.1 to 5 has contended that suit summons was served them. due to lack of knowledge and illiteracy of defendants, they failed to file their written statement within limitation. Hence, they prayed to set aside no written statement order and for permission to file their written statement on record. The instant application is supported by an affidavit.

3. Plaintiff filed his say behind this application. He strongly objected this application on the ground that the application is false. The reason is not justifiable. Hence, he prayed to reject this application. If the court comes to the conclusion to allow this application, the application may be allowed subject to cost of rupees 5000/-.

4. Heard the learned advocate for the plaintiff and defendant No.9 at length.

5. On perusal of record, it reveals that summons were served to defendant No.1 to 5 on 29/09/2022. They appeared on 04/10/2022 by filing their Vakalatnama vide Exh.15. But, they failed to file their written statement. Hence, no written statement order passed against them on 21/12/2022. Thereafter, they adduce this application. The suit is for partition, perpetual injunction and declaration. Thus, the say and defence

of defendant No.9 is necessary for just decision of case. I have considered the reason of failure of defendant No.1 to 5 to adduce their written statement within statutory period. Thus, I took lenient view and consider reason of their failure to adduce their written statement within statutory period. The reason of their failure is not justifiable. But, considering their right involved in the suit property, I consider it. Due to delay of defendant, re, plaintiff caused loss. Hence, plaintiff is entitled for cost.

6. The suit is for partition, perpetual injunction and declaration. Defendant no.1 to 5 has right to put up their defence. Considering the involvement of their right in the suit property, their written statement requires to be an essential to be bring on record. Due to failure of their appearance, the plaintiff is suffered. Therefore, the plaintiff deserve for costs and the application deserves to be allowed. Hence, the order-

**ORDER**

The application (Exh.21) is allowed.

2. No written statement order passed against defendant no. 1 to 5 is set aside subject to cost of Rs.500/- to be paid to plaintiff on or before next date.

Date:- 17/07/2023.  
Newasa.

Sd/-  
(Smt. A.S. Gunjawate)  
2<sup>nd</sup> Jt. Civil Judge, Junior Division,  
Newasa.