

REGULAR CIVIL SUIT NO.1139/2020
ORDER PASSED BELOW EXHIBIT NO.23

MHAH140015222020



Defendant No.9 has filed this application for setting aside “no written statement” order passed against him and for permission to file his written statement on record.

2. By this application, defendant No.9 has contended that suit summons was served them on 02/03/2021. Due to Covid-19 situation and his illness, he failed to file his written statement within limitation. Hence, he prayed to set aside no written statement order and for permission to file his 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 heavy cost.

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.9 on 04/01/2021. They appeared on 31/03/2021 by filing his Vakalatnama vide Exh.16. But, he failed to file his written statement. Hence, no written statement order passed against them on 04/12/2022. Thereafter, he adduce this application. I have considered the reason of failure of defendant No.9 to adduce his written statement within statutory period. 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. Thus, I took lenient view and consider reason of his failure to adduce his written statement within statutory period. The reason of his failure is justifiable. But, since July, 2021 there is no covid-19 situation in existence. In spite of that he failed to file it after Covid-19 position. Therefore, plaintiff caused delay. Hence, plaintiff is entitled for cost.

6. The suit is for partition, perpetual injunction and declaration. Defendant no.9 has right to put up his defence. Considering the involvement of his right in the suit property, his written statement requires to be an essential to be bring on record. Due to failure of his 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.19) is allowed.

2. No written statement order passed against defendant no. 9 is set aside subject to cost of Rs.200/- to be paid to plaintiff.

Date:- 14/06/2023.
Newasa.

(Smt. A.S. Gunjawate)
2nd Jt. Civil Judge, Junior Division,
Newasa.