

ORDER BELOW EXH.26

(IN RCS 74/2022)

This is an application filed by the Defendant No.1 to set aside “No Written Statement” order passed against them on 21.10.2022.

2) Defendant No.1 in his application contended that, Defendant no.1 is an age old person. He is resident of Aurangabad, hence due to illness and age he could not get necessary documents from revenue department within time, hence he did not file written statement within stipulated time. Further it is contended that to felicitate matter on merit, written statement of the defendant no.1 is necessary. Hence, he prayed for setting aside No Written Statement order passed against him.

3) The Plaintiff strongly resisted present application by filing his say on the backleaf of the application. He contended that, reasons mentioned in the application are not true and correct. Defendant has not mentioned which documents he wanted for filing written statement. Further he has contended that, defendant has not filed single document with written statement, therefore reasons mentioned in the application is not true and correct. Defendants have not filed evidence to support their contention. Hence, he prayed for rejection of the application.

4) Heard Ld. Advocate of the Defendant and Ld. Advocate for the Plaintiff. They have submitted as per their application and say.

5) Prused file and record. It shows that, present suit is filed for partition, possession, declaration and permanent injunction in respect of immovable property. Thus, the valuable rights appears to be involved in the suit. In such circumstances, fair opportunity needs to be given to defendant no.1 to contest

the plaintiff's suit. In case the defendant no.1 permitted to file his written statement, it will certainly cause no loss to plaintiff. On the contrary, suit will be disposed of on merit by hearing the parties concerned. Considering this aspect, this court is of the opinion that, application needs to be allow the application with some cost. Hence, in the result I pass following order:

ORDER

1. Application (Exh.20) is allowed subject to cost of Rs.200/- payable by Defendant no.1 plaintiff.
2. The order of No Written Statement dated 21.10.2022 is set aside. I proceed to pass an order below Exh.1

Place: Shevgoan

Date : 08.12.2022

(Monali. A. Bendre)
2nd Jt. Civil Judge Junior Division
Shevgaon.

ORDER BELOW EXH.1

In view of Order below Exh.51, “No written statement order” dated 30.06.2021 passed against Defendant No.4 is set aside.

Place: Ahmednagar

Date : 30.08.2021

(Monali. A. Bendre)

Extra Jt Civil Judge Junior Division

Ahmednagar.

ORDER ON WRITTEN STATEMENT

In view of order below Exh.51, written statement of Defendant No.4 is filed within 90 days from the service of summons i.e from 15.06.2021. Hence it is read and recorded.

Place: Ahmednagar

Date : 30.08.2021

(Monali. A. Bendre)

Extra Jt Civil Judge Junior Division

Ahmednagar.