

ORDER BELOW EXH.19

(IN RCS 137/2020)

This is an application filed by Defendant No.1 to set aside the “No Written Statement” order passed against him on 15.10.2022. The application is supported with an affidavit.

2) Defendant in his application contended that, defendant no.1 was ill and defendant no. 1 was out of station for his livelihood. Further, defendants contended that, the delay to file a written statement is not intentional. Further it is contended that to felicitate matter on merit, written statement of the defendants is necessary. Hence, he prayed for setting aside “No Written Statement” order passed against him and permission to file the same.

3) The Plaintiff strongly resisted present application by filing his say on back leaf of application. He contended that, reasons mentioned in the application are not true and correct. Hence, he prayed for rejection of the application.

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

5) Perused file and record. It shows that, present suit is filed for partition and separate possession of suit property. It is in respect of immovable property. Thus, valuable rights appear to be involved in the suit. In such circumstances, a fair opportunity needs to be given to the defendant to contest the plaintiff’s suit. In case the defendant is permitted to file his written statement, it will certainly cause no loss to the

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, the application needs to be allowed but at the same time one year delay needs to be compensated by a saddling cost of Rs. 300/-. Hence, in the result I pass the following order:

ORDER

- 1 Application (Exh.19) are allowed subject to cost of Rs.300/- payable by Defendant No.1 to the plaintiff.
- 2 The order of “No Written Statement” dated 15.10.2022 is set aside.
- 3 Defendant No.1 is permitted to file a written statement on record.
- 4 I proceed to pass an order below Exh.1

Place: Shevgoan

Date : 05.04.2023

Sd/-

(Monali. A. Bendre)

2nd Jt. Civil Judge Jr.,Division,
Shevgaon.

