

ORDER BELOW EXH.22

(RCS No. 401/2022)

Present application filed by Defendant No.1 for condonation of delay for filing written statement and setting aside orders passed against him. Application is supported with an affidavit.

2) Perused application and say filed thereon. In the application, it is contended that due to unavailability of documents defendant did not file written statement within time. Therefore, defendant prayed for condonation of delay to file written statement with permission to file the same alternatively prayed for setting aside orders passed against him. In the say, the plaintiff contended that the grounds mentioned in the application are not true and correct. Defendant has not properly explained delay. Present application is not legal. Defendant is trying to prolong the matter. Therefore, the plaintiff prayed for rejection of the application and alternatively prayed for cost.

3) Heard Ld. Advocate for the defendant and the plaintiff. They have submitted as per their contentions in the application and say.

4) Perused Record. Present suit is filed for partition and separate possession against defendants. To decide matter on merit and to felicitate just decision of the case, written statement of the defendant is also necessary. Therefore, considering the nature of the suit, facts, circumstances, grounds mentioned in the application, in

the interest of justice, and for proper adjudication of the present suit this court is of the opinion that written statement of the defendant is necessary hence, Ex-parte order passed against defendant no. 1 dated 21.02.2023 needs to be set aside and fair opportunity needs to be given to participate in the proceeding but subject to saddling cost of Rs. 300/-. Therefore, I pass the following order:

ORDER

- 1 Application (Exh.25) is allowed subject to cost of Rs.300/- payable by defendant no.1 to the plaintiffs.
- 2 Ex-parte order dated 21.02.2023 passed against Defendant no. 1 is hereby set aside.

Place: Shevgoan

Date: - 06.06.2023

Sd/-

(Monali A. Bendre)

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