

**ORDER BELOW EXH. 33 IN RGS. NO. 427/2023**  
(MHAH1900 1848 2023)

01. Defendant no.1 to 4 have filed this application to set-aside “No W.S.” order passed against them. It is submitted that defendant no.1, 3 and 4 went out of village hence, they could not file their WS. Moreover, defendant no. 2 is working as driver in ST Department. He could not avail leave on the court hearing date due to which he failed to file his WS in the suit. It is further submitted that it is necessary to measure the suit property as per the application given by the plaintiffs. Defendant no.1 to 4 did not make the delay purposefully. If the WS of defendant no.1 to 4 is not taken on record then they will suffer irreparable loss. Hence, defendant no.1 to 4 prayed that NO WS order passed against them be set aside and their written statement be taken on record.

02. Plaintiff filed say to the instant application overleaf the same application and stated that plaintiff is having objection to allow the instant application.

03. Heard both sides. Perused record.

04. The suit is filed for possession of encroached portion. On perusal of record it shows that NO WS order is passed against defendant no. 1 to 4 on 26/08/2024. Defendant no.1 to 4 have submitted that defendant no.1, 3 and 4 were out of village and defendant no. 2 is working as driver in ST Department and he could not avail leave on the court hearing date due to which they failed to file their WS in the suit. Hence, delay is caused by them to file their WS. However, the suit is related to immovable property. Say of every party should come on record for fair trial and proper decision of the suit. Looking to the nature of suit and relief against defendants, the written statement of defendant no.1 to 4 is necessary to come on record to avoid multiplicity of proceeding. The defendant no.1 to 4 have availed sufficient

time to file their WS. Thus, it is necessary to impose cost. Hence, I pass the following order.

**ORDER**

1. Application is allowed subject to cost of Rs. 100/- each to be paid by defendant no.1 to 4 to the plaintiff.
2. After payment of cost, the WS of defendant no.1to 4 be taken on record.

Place : Shevgaon  
Date : 30/09/2024

(S. U. Jaguste)  
Civil Judge Junior Division,  
Shevgaon.