

CNR No:- MHAH190018852023



R.C.S No. 438/2023

**Ganesh Chavan Vs. Bapurao
Chavan.**

ORDER BELOW EXH. 14 AND 16

This is an application filed by Defendant No. 1 to set aside the “No written statement” order passed against them. The application is supported with an affidavit.

2) Defendants in his application contended that, they are out of station due to their work hence they could not file their written statement within limitation. 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 them and permission to file the same.

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. Further contended that, defendants are trying to prolong the matter. Hence, plaintiff 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 removal of encroachment and removal of encroach portion. Thus, valuable rights appear to be involved in the suit. In such circumstances, a fair opportunity needs to be given to the

defendants to contest the plaintiff's suit. In case the defendants are permitted to file their 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 record shows that defendant were appear in the suit on 13.12.2023. Defendant file the present application after 10 months. This long delay of 10 months needs to be compensated by a saddling cost of Rs. 300/-. Hence, in the result I pass the following order:

ORDER

- 1) Application (Exh. 14 and 16) is allowed subject to cost of Rs.300/- payable by Defendant No. 1 to the plaintiff.
- 2) The order of "No Written Statement" against defendant No. 1 dated 03.08.2024 is set aside.
- 3) I proceed to pass an order below Exh.1

Place: Shevgoan

Date : 30/11/2024

(Monali. A. Bendre)

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