

MHAH200011382020



**ORDER BELOW EXH.13 IN REG.C.S NO. 254 of 2020.
Gorakshnath Marathe Vs. Dashrath Marathe & Ors.**

1. This an application filed by defendant No. 1 and 3 to 6 for permission to file Written Statement/Say on record by setting aside No W.S. Order.

2. It is contention of these defendants that, plaintiffs have filed present suit for partition against the defendants in respect of suit property. They received suit summons and appeared in the suit however, they could not file Written Statement, within time, and therefore, No W.S. Order is passed. There is no deliberate delay. Hence, lastly they prayed to allow this application.

3. The plaintiffs have strongly objected the application by filing their Say to this application and submitted that, there is deliberate delay to file written statement only to prolong the matter. No sufficient reasons mentioned in the application. Sufficient and reasonable opportunity was given to the defendant to file their W.S./Say on record but, they failed. Lastly plaintiffs prayed to reject the application with costs. Heard learned advocate for the plaintiff. the learned advocate for the defendant is absent when called out reported hence the application is proceeded without advocate of the defendants.

4. It is not disputed that, there is delay to file written

statement on record for defendants. The defendants appeared in the suit and failed to file their written statement/say within time. Moreover, suit is for partition, in respect of immovable property. Considering the reasons mentioned in the application and to decide the matter on merit and interest of justice, I pass the following order.

ORDER.

1. Application at Exh.13, is hereby allowed subject to cost of Rs.100/- each on or before next date. On failure to pay cost amount application stands rejected.
2. Defendants No.1 and 3 to 6 are permitted to file their Written Statement/Say on record after payment of costs.

Date : 03/05/2023

(A.S. Birajdar)
Civil Judge (J.D.),
Pathardi.