

MHAH220012972011

**R.C.S. No. 335/2011**

Vithal Labade and Ors.

Vs. Rajaram Labade and Ors.

ORDER BELOW EXH.82

This is an application filed by defendant No. 1 for setting aside no written statement order passed below Exh. 1 with permission to file their written statement.

2. It is the contentions of defendant No. 1 that he could not receive relevant documents within time. Therefore, he could not file written statement within stipulated period. Hence, no written statement order is passed below Exh.1. Therefore, Defendant No.1 filed present application for setting aside no written statement order with permission to file their written statement.

3. On behalf of the plaintiffs Ld. Advocate filed his say on overleaf of the present application, wherein, he submitted that costs of Rs. 5,000/- may be granted.

4. Heard both sides.

5. Perused the record. After perusal of record, it appears that the plaintiffs filed the present suit regarding partition and declaration against defendants.

6. It is pertinent to note here that reasons mentioned in the present application is not proper and genuine. However, the present application is relating to immovable property. If the application is allowed no prejudice will cause to the plaintiffs. Per contra, it will avoid the multiplicity of the proceeding. For fair trial, it is necessary to give an opportunity to the defendant to defend the suit. If an opportunity is not given to the defendant it will cause hardship to him. However, delay caused by the defendant for filing written statement can be compensated

by imposing costs on the defendant No.1. No prejudice will be caused to the plaintiffs. So in the interest of justice, I proceed to pass the following order.

ORDER

- 1) The application is allowed with costs.
- 2) The no written statement order against defendant No. 1 is setting aside.
- 3) Defendant No. 1 are permitted to file their written statement subject to payment of costs of Rs. 200/- (Rs. Two Hundred Only) to the plaintiffs.

[Dictated and pronounced in open Court.]

Date : 11/02/2026.

(R. B. Raut)
2nd Jt. Civil Judge, Junior Division,
Karjat, Dist. Ahmednagar