

ORDER BELOW EXH.29 IN R.C.S. NO.16/2024

Present application has been placed on behalf of defendants no.3A, 3B and 3D for setting aside “No written statement” order passed against them along with permitting them to submit their written statement. Plaintiffs have resisted the application by filing their say. Perused the application and say. Heard, learned pleaders appearing for both the parties. From the record of present suit, it appears that on 16/02/2024, defendants no. 3A, 3B and 3D are served with the suit summons. Therefore, written statement of defendants no.3A, 3B and 3D ought to have been submitted atleast till 16/05/2024. Present application has been placed on 06/03/2026. Delay of 1 year, 9 months and 18 days appears to have been caused for submission of written statement of defendants no.3A, 3B and 3D. However, grounds as contended in present application, seems to be justifiable and well founded. On perusal of plaint, it appears that through present suit, plaintiffs have sought reliefs of declaration and perpetual injunction against defendants. Considering the nature of reliefs sought by the plaintiffs and involvement of immovable property in the suit, present suit is required to be decided on merit by giving fair opportunity of being heard to defendants no.3A, 3B and 3D. So far as provision of Order VIII Rule 1 of Code of Civil Procedure is concern, said provision is not mandatory but same is directory in nature and defendants can be permitted to submit their written statement even after expiry of period of limitation, if their exists unavoidable circumstances preventing the parties from submission of written statement within

stipulated period. Therefore, in view to decide the present suit on merit and to give fair opportunity of being heard to defendants no.3A, 3B and 3D, they need to be permitted to submit their written statement. Hence, I pass following order :-

:: **ORDER** ::

1. Application at Exh.29 is allowed.
2. “No written statement” order passed against defendants no.3A, 3B and 3D stands set aside and they are permitted to submit their written statement, subject to cost of Rs.1500/-, payable to the plaintiffs, jointly or severally.

Shrigonda
Date :- 06/04/2026

(H. J. Pathan)
2nd Jt. Civil Judge, S.D., Shrigonda.