

ORDER BELOW EXH.36 IN SPL.C.S. NO. 03/2025

Present application has been placed on behalf of defendants no. 1 to 8 for setting aside “*ex-parte*” order passed against defendants no.1, 5 and 6 and “No written statement” passed against defendants no.2 to 4, 7 and 8, along with permitting them submit their written statement. Plaintiff has resisted the application by filing his say. Perused the application and say. Heard, learned advocates appearing for both the parties. From the record of present suit, it appears that, on 11/02/2025, defendant no.1 is served with the suit summons, whereas on 12/02/2025, defendants no.5 & 6 are served with the suit summons. However, due to failure on the part of defendants no. 1, 5 & 6 to appear in present proceeding, on 29/04/2025, suit is ordered to be proceeded *ex-parte* against defendants no. 1, 5 & 6. Delay of more than 9 months appears to have been caused for appearance and submission of written statement of defendants no.1, 5 & 6. Even, on 12/02/2025, defendants no.2 to 4, 7 and 8 are served with the suit summons, therefore written statement of defendants no.2 to 4, 7 and 8 ought to have been submitted atleast till 12/05/2025. On 7/02/2026, present application has been placed. Delay of more than 9 months appears to have been caused for submission of written statement of defendants no.2 to 4, 7 and 8. However, grounds as averred in present application appears to be justifiable and well founded. Moreover, through present suit, plaintiff has not only sought the declaration in respect of registered sale deed bearing day book no.8104/2024, but he has also sought direction against defendants no.1 to 3 to execute sale deed in his favour in respect of property as referred in para 1B of the plaint, by virtue of preferential right to purchase said property. Considering the nature of

reliefs sought and involvement of immovable property in the suit, present suit is required to be decided on merit. Therefore, in view to decide present suit on merit and to give fair opportunity of being heard to defendants no.1 to 8, they need to be permitted to submit their written statement. 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 there 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.1 to 8, they need to be permitted to submit their written statement, along with setting aside “*ex-parte*” order passed against defendants no.1, 5 and 6 and “No written statement” passed against defendants no.2 to 4, 7 and 8. Hence, I pass following order :-

:: **ORDER** ::

1. Application at Exh.36 is allowed.
2. “*Ex-parte*” order passed against defendants no.1, 5 & 6 and “no written statement” order passed against defendants no.2 to 4 and 7 & 8 stands set aside and they are permitted to submit their written statement, subject to cost of Rs.1600/-, payable to the plaintiff, jointly or severally.

Shrigonda
Date :- 23/03/2026

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