

Regular Civil Suit Number 53/2024
CNR Number MHAH- 23-000133-2024

1. Shilpa Kalyan Parakhe **Plaintiffs**

Versus

1. Kalyan Rangnath Parakhe **Defendants**

ORDER BELOW EXHIBIT 25

1. The defendant number 2 has moved the application vide exhibit 25 for setting aside no written statement order. The defendant number 2 has stated that, the documents which are necessary for drafting written statement are not available. Therefore, this defendant cannot file written statement within stipulated period. This defendant number 2 must get the opportunity to put forth his defence, otherwise he will suffer irreparable loss.

2. The plaintiff has filed say and raised strong objection. It is stated that, application is false and vexatious. Application is not maintainable. Hence, application is to be rejected.

3. I have perused application vide exhibit 25. I have heard both sides at length. The following points arise for my determination.

Serial number	Points	Findings
1	Does defendant number 2 entitle for setting aside, 'no written statement order' ?	Yes
2	What is order ?	The application is allowed.

REASONS

4. The present suit is for participation and perpetual injunction. The nature of suit is such that, if the opportunity for filing written statement is denied to this defendant, then it will affect the merit of case. It may result into multiplicity of proceeding. 'Audi alteram partem' is principle of natural justice. It means that, no one shall be condemned unheard. Hence, it is just and proper to give opportunity to this defendant for filing written statement. The defendant number 2 has stated that, the documents which are necessary for drafting written statement are not available. Therefore, this defendant cannot file written statment within stipulated period. The reason stated by the defendant number 2 for setting aside the order are sufficient. The defendant number 2 has not caused the delay deliberately. The circumstances

were beyond the control of defendant. Hence, it will not be proper to saddle the cost on shoulder of defendant, after considering the circumstances. Therefore, the present application is allowed. In the result, the following order is passed.

ORDER

1. The application vide exhibit 25 is allowed.
2. The order passed against the defendant number 2 vide Exhibit 01 stating that the suit shall proceed further without written statement of defendant number 2 is hereby set aside. The suit shall proceed further according to provisions of law.

Shrigonda
Date – 01-01-2025

Smt. K. A. Katkar
Joint C. J. J. D, Shrigonda

: CERTIFICATE :

I affirm that the contents of this pdf file order are same words as per original Order.

Case No.	:	RCS 53/2024
Name of Stenographer	:	Smt. N. D. Dawat
Court Name	:	Joint Civil Judge Junior Division Shrigonda, Dist-Ahmednagar
Date of Decision	:	01-01-2025
Order signed by P.O. on	:	01-01-2025
Order uploaded on	:	01-01-2025