

**ORDER BELOW EXH.25 IN R.C.S. NO.109/2023**

Present application has been placed on behalf of defendants no.1 & 2 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 advocates appearing for both the parties. From the record of present suit, it appears that on 27/07/2023, defendants no. 1 & 2 are served with the suit summons. Therefore, written statement of defendant no. 1 & 2 ought to have been submitted atleast till 25/10/2023. Present application has been placed on today itself. Delay of more than two years and four months appears to have been caused for submission of written statement of defendants no.1 and 2. However, grounds as referred in present application seems to be justifiable and well founded. Through present suit, plaintiffs have sought reliefs pertains to fixation and demarcation of the boundaries of the suit property. Considering the nature of relief 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.1 & 2. 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 present suit on merit and to give fair opportunity of

being heard to defendants no.1 & 2, they need to be permitted to submit their written statement. Hence, I pass following order :-

:: **ORDER** ::

1. Application at Exh.25 is allowed.
2. "No written statement" order passed against defendants no.1 & 2 stands set aside and they are permitted to submit their written statement, subject to cost of Rs.2,000/-, payable to the plaintiffs, jointly or severally.

Shrigonda  
Date :- 09/03/2026

( **H. J. Pathan** )  
2<sup>nd</sup> Jt. Civil Judge, S.D., Shrigonda.