

Regular Civil Suit Number 183/2019

CNR Number MHAH- 23-000432-2019

Sangita Bhaskar Ghodke Plaintiff

Versus

1. Dada Khandu Gavhane Defendants

ORDER BELOW EXHIBIT 16

1. The defendant number 1, 2 & 5 have moved the application vide exhibit 16 for setting aside no written statement order. The defendant number 1, 2 & 5 have stated that, the documents which are necessary for drafting written statement are not available. There was outbreak off COVID-19 virus. Lockdown was declared. Therefore, these defendants cannot filed written statment within stipulated period. The defendants number 1, 2 & 5 must get the opportunity to put forth their defence, otherwise they will suffer irreparable loss.

2. The plaintiff has not filed say but raised strong objection during argument.

3. I have perused application vide exhibit 16. I have heard both sides at length. The following points arise for my determination.

Serial number	Points	Findings
1	Do defendant number 1, 2 & 5 entitle for setting as side, 'no written statement order' ?	Yes
2	What is order ?	The application is allowed.

Reasons

4. The present suit is for partition and perpetual injunction. The nature of suit is such that, if the opportunity for filing written statement is denied to these defendants, 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 these defendants for filing written statement. The defendant number 1, 2 & 5 have stated that, the documents which are necessary for drafting written statement are not available. There was outbreak of COVID-19 virus. Lockdown was declared. Therefore, these defendants cannot file written statment within stipulated period. The reasons stated by the defendant number 1, 2 & 5 for setting aside the order are sufficient. The defendant number 1, 2 & 5 have not caused the delay deliberately. The circumstances were beyond the control of defendant number 1, 2 & 5. Hence, it will not be

proper to saddle the cost on shoulder of these defendants, after considering the circumstances. Therefore, the present application is allowed. In the result, the following order is passed.

ORDER

1. The application vide exhibit 16 is allowed.
2. The order passed against the defendant number 1, 2 & 5 vide Exhibit 01 stating that the suit shall proceed further without written statement of defendant number 1, 2 & 5 is hereby set aside. The suit shall proceed further according to provisions of law.

Shrigonda
Date – 12/09/2022

Sd/-
Smt. K. A. Katkar
Joint C. J. J. D, Shrigonda

: C E R T I F I C A T E :

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

Case No.	:	RCS 183/2019
Name of Stenographer	:	Smt. S. V. Jadhav
Court Name	:	Joint Civil Judge Junior Division Shrigonda, Dist-Ahmednagar
Date of Decision	:	12/09/2022
Order signed by P.O. on	:	12/09/2022
Order uploaded on	:	12/09/2022