

ORDER BELOW EXH. 26 IN R.C.S. NO.239/2024

Present application has been placed on behalf of defendant no. 8 for condonation of delay as caused for submission of written statement along with permitting him to submit his written statement. Plaintiff has resisted the application by filing her say. Perused the application and say. Heard, learned pleaders appearing on behalf of both the parties. From the record of present suit, it appears that on 06/11/2024, defendant no.8 is served with the suit summons, whereas on 06/01/2025, he has preferred present application. No inordinate delay appears to have been caused for submission of written statement of defendant no. 8. Moreover, grounds, especially the grounds pertains to non-availability of documents as contended in present application, seems to be justifiable and well founded. On perusal of plaint, it appears that through present suit, plaintiff has sought the reliefs of declaration, partition and perpetual injunction against defendants. Considering the reliefs sought by the plaintiff against defendants, it is desirable to decide the present suit on merit. 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 defendant can be permitted to submit his 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 defendant no.8, he need to be permitted to submit his written statement. Hence, I pass following order :-

:: **ORDER** ::

1. Application at Exh.26 is allowed.
2. Delay as caused for submission of written statement of defendant no.8 is hereby condoned and he is permitted to submit his written statement, subject to cost of Rs.100/-, payable to the Plaintiff.

Shrigonda

Date :- 16/06/2025

(**H. J. Pathan**)

2nd Jt. Civil Judge, S.D., Shrigonda.