

ORDER BELOW EXH. 28 IN R.C.S. NO.239/2024

Present application has been placed on behalf of defendants no.11 & 12, for condonation of delay as caused for submission of their written statement along with permitting them to submit their 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, defendants no. 11 & 12 are served with the suit summons, whereas on 06/01/2025, they have preferred present application. No inordinate delay appears to have been caused for submission of written statement of defendants no. 11 & 12. 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 defendants no.11 & 12, they need to be permitted to submit their written statements. Hence, I pass following

order :-

:: **ORDER** ::

1. Application at Exh.28 is allowed.
2. Delay as caused for submission of written statement of defendants no. 11 & 12 is hereby condoned and they are permitted to submit their written statements, subject to cost of Rs.200/-, payable to the Plaintiff.

Shrigonda
Date :- 16/06/2025

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