

MHAU050026702023

**RCS NO. 400/2023**

Alkabai Shankar Done

Vs.

Annasaheb Punjaba Jadhav & Ors.

ORDER BELOW EXH.13

This is an application filed by Defendant Nos. 1 , 2, 4, 5 to set aside the “No written statement” order passed against him on 23.02.2024. The application is supported with an affidavit.

02) Defendants Nos. 1 , 2, 4, 5 in their application contended that, due to financial crises and due to unavailability of the necessary documents they were unable to file their written statement on record. Hence, the delay to file a written statement is not intentional. Further it is contended that to felicitate matter on merit, written statement of the defendant is necessary. Hence, they prayed for setting aside “No Written Statement” order passed against him and permission to file the same.

03) The Plaintiff strongly resisted the present application by filing her say. He contended that, reasons mentioned in the application are not true and correct. Defendants have filed vague and ambiguous application. Defendants are trying to prolong the matter. Hence, plaintiff prayed for rejection of the application.

04) Heard Ld. Advocate of the Defendants and Ld. Advocate for the Plaintiff. They have submitted as per their application and say.

05) Perused file and record. It shows that, present suit is filed for partition and separate possession. Thus, valuable rights appear to be involved in the suit. In such circumstances, a fair opportunity needs to be given to the defendants to contest the plaintiff's suit. In case the defendants are permitted to file his written statement, it will certainly cause no loss to the plaintiff. On the contrary, suit will be disposed of on merit by hearing the parties concerned. Considering this aspect, this court is of the opinion that, the application needs to be allowed but at the same time delay needs to be compensated by a saddling cost of Rs. 200/-. Hence, in the result I pass the following order:

ORDER

1. Application (**Exh.13**) is allowed subject to cost of Rs.200/- payable by Defendants to the plaintiff.
2. The order of "No Written Statement" dated 23.02.2024 is set aside.
3. I proceed to pass an order below **Exh.1**.

Date : 09.07.2025

(Smt. M. A. Bendre)
3rd Jt. Civil Judge Junior Division,
Vaijapur.