

MHAU080017232022 	R.C.S./215/2022 Vaibhav Kashinath Suryawanshi Vs. Kashinath Tukaram Suryawanshi
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ORDER BELOW EXH.30.
(Passed on dated 09.01.2025)

1. Learned Adv. V I Mandlecha, representing defendants filed this application for setting aside no written statement order passed against defendant No. 4 to 7.
2. It is submitted that, on previous dated defendant No. 4 to 7 could not file their written statement within time because of residing at their matrimonial family. Their conduct is accidental and not intentional one. If they are not permitted to file their written statement they shall suffer great loss which can not be compensated. Hence, it is prayed for granting the very application.
3. The say of plaintiffs was called upon. Accordingly, Ld. Adv. Shaikh endorsed his say on the very application and opposed that application contending that, these defendants caused their appearance vide Exh. 17. As they failed to file their written statement on dated 07.06.2023. An order of no written statement and ex-parte proceeding is passed. This application is filed after the lapse of near about 13 months. No cited reason is legal one. Hence, the rejecting the very application an imposing cost of Rs. 10,000/-.
4. Perused the application, say thereon and record in hand. It appears that, plaintiff No. 1 and 2 filed present suit against defendant No. 1 to 7 for partition, possession and permanent injunction.

5. Record shows that, defendant No. 4 to 7 caused their appearance on dated 09.03.2023 vide Exh. 17. Thereafter, time to time they got time to file their written statement but in vain. It appears that, the present application is filed on dated 14.10.2024 and present application is filed after the lapse of near about one and half year. The reason cited is not exceptional and warranted one. The reason is palpably false.

6. Now, the question is that, the suit is as to partition, possession and permanent injunction regarding agriculture land. Hence, in order to decide controversy between parties completely and effectively, it requires to give an opportunity to defendants to file their written statement. Another reason is that, it shall assist the Court in deciding suit on merit. But, at the same time it is to be born in mind that parties shall not take disadvantage of the lenient view of the Court. As such, it requires to impose cost of Rs. 2,000/- payable by all defendant No. 4 to 7 in proportion to plaintiffs. Accordingly, I pass the following order :-

ORDER

1. Application at Exh. 30 is hereby allowed.
2. No written statement order dated 06.07.2023 passed against defendant No. 4 to 7 is hereby set aside subject to cost of Rs. 2,000/- payable to plaintiffs by defendant No. 4 to 7 in proportion.
3. On payment of cost defendant No. 4 to 7 shall be entitled to file their written statement.

Place :- Sillod
Date :- 09.01.2025

(Shri. K T Adhayke)
Jt. Civil Judge, J.D., Sillod

:-CERTIFICATE:-

I certify that the contents of this PDF File are word to word as per Original Judgment/Order.

Name of the Stenographer	:- R.D.Pawar ,
Name of the Court	:- J.M.F.C., Sillod.
Date	:- 09.01.2025
Order Digitally signed by Presiding officer on	:- 09.01.2025
Order Uploaded on	:- 09.01.2025

Sd/-
Stenographer Grade-III.