

**ORDER BELOW EXH. 49 IN**  
**RCS NO. 631/2020 (I.A. No.2/2023 )**  
**( Vijaya Vs. Dadasaheb)**

1. This is the application filed by the defendant no. 4 on behalf of defendant no. 3 to 5 for grant of permission to file their written statement on record.

2. Defendant no. 4 contended that, plaintiff is his sister therefore he tried to compromise the matter out of Court. But, compromise cannot be occurred. Thereafter due to corona situation plaintiff no. 3, 4 and 5 could not file their written statement within limitation period. After amendment carried out by the plaintiff in her plaint they could not get amended copy of plaint. Hence, they could not file their written statement. During the period his father was admitted in the hospital due to illness. Suit being related to the immovable property their defence is necessary to be brought on record. Hence, he prayed for grant of permission to file written statement of defendant no. 3, 4 and 5 .

3. By filing say plaintiff opposed the application contending that, to prolong the matter defendants have not filed their written within limitation. No proper reason is shown by defendants. Hence, plaintiff sought for rejection of this application.

4. Perused the record it appears that, suit is filed for partition and separate possession. Due to not filing written statement within limitation my learned predecessor vide order dated 13.01.2022 proceeded this suit without written statement of defendant no. 3 and 4 and proceeded exparte against defendant no. 5. Defendants have filed

this application on 17.06.2023. Therefore, it appears that after passing of “No W.S.” and ex parte order defendant no. 3 to 5 have filed this application after about 16 months. Defendant no. 3 to 5 have not produced any document in support of their contentions regarding illness of his father. However, considering the nature of the proceeding it is necessary to bring on record the defence of the defendant no. 3 to 5 by filing their written statement. The delay caused can be compensated by imposing cost. Hence, in the interest of justice I proceed to pass following order.

### **ORDER**

1. This application is allowed on payment of cost of Rs.1000/- to plaintiff on or before next date.
2. On Payment of cost amount “No W.S.” order against defendant no. 3 and 4 and ex parte order against defendant no. 5 dated 13.01.2022 will be set aside and they will be permitted to bring their written statement on record.
3. If the defendant no. 3 to 5 fails to pay cost amount this order shall be deemed to be vacated.

**Date : 03/11/ 2023**

**( S. P.Wankhade )  
Civil Judge, Junior Division,  
Georai**

I affirm that the contents of this PDF file are word to word as per original order.

Dictated on : 03/11/2023

Transcribed on : 03/11/2023

Checked & signed on : 03/11/2023

Sd/-  
(V. V. Mandve )  
Stenographer Grade- 3  
C.J.J.D. & J.M.F.C., Georai.