

MHBI160011102021

R.C.S.No.544/2021

Suresh & Ors Vs. Laxman & Ors.



ORDER BELOW EXH.31

Defendant no. 10 to 16 moved present application with prayer to set aside no written statement and No cross order passed against them.

2. Plaintiffs have filed their say below the same application and opposed the application.

3. Perused the application, say along with record of the suit. Heard Ld. Advocates for both sides. The present suit is filed for partition and separate possession. Admittedly, defendant No.10 to 16 did not file their written statement within limitation and delay has been caused for filing written statement by defendant No.10 to 16. But, only on the ground of delay application of defendant No.10 to 16 cannot be rejected. Further, defendant No.10 to 16 have not conducted cross-examination of plaintiff's witness. Therefore, no cross-examination order is passed against them. However, by the present application defendant No.10 to 16 wants to file their defence through written statement and conduct cross-examination of plaintiff witness. In these circumstances if present application is rejected, then defendant no. 10 to 16 could not bring their case before the Court through written statement and cross-examination. Further reasons assigned in application shows that defendant No.10 to 16 have not deliberately caused delay and delay caused by defendant No.10 to 16 is condonable. Hence, considering nature of proceeding and rule of natural justice, opportunity to file

written statement and conduct cross-examination will have to be given to defendant No.10 to 16 by setting aside no written statement and no cross order passed against them. As far as objection raised by plaintiffs is concerned, it can be compensated in terms of cost. Considering, the period of delay and reasons assigned by defendant No.10 to 16 to the present application, cost of Rs. 1000/- is sufficient to compensate plaintiffs. Hence, in the interest of justice, following order is passed.

Order

1. Application is hereby allowed.
2. No written statement and no cross order passed against defendant no.10 to 16 is hereby set aside and defendant no. 10 to 16 are permitted to file written statement on record and conduct cross-examination of plaintiff witness subject cost of Rs.1000/-.
3. Defendant no. 10 to 16 are hereby directed to pay cost amount on or before next date to plaintiffs, failure to which application be treated as rejected.
4. Parties to note.

Date : 03/07/2025

(A.S. Jagtap)
Civil Judge Jr. Division,
Shirur kasar.

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

Dictated on : 03/07/2025

Transcribed on : -----

Checked & signed on : 03/07/2025

[Sagar S. Ajabe]
Stenographer Grade-3