

MHBI160013392020



R.C.S.No.603/2020

Shakuntala Vs. Raosaheb & Ors.

ORDER BELOW EXH.47

Defendant no. 1 to 14 moved present application with prayer to set aside no written statement and Ex-parte order passed against them.

2. Plaintiff has filed her 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. Defendant No. 1 to 7 and 9 to 13 were appeared this suit through advocate. However, they failed to file their written statement within limitation. Further, defendant No.8 and 14 served with summons, but failed to appear. Hence, this Court has passed order below Exh.1 and proceeded to decide this suit without written statement of defendant No.1 to 7, 9 to 13 and Ex-parte against defendant No.8 and 14. However, by the present application defendants have prayed to set aside no written statement order and Ex-parte order passed against them. All these fact shows that, defendant no. 1 to 14 have caused for filing written statement. But, only on the ground of delay application of defendants cannot be rejected. If present application is rejected, defendant no. 1 to 14 could not bring their defence before the Court through written statement. Further reasons assigned in application shows that defendant no. 1 to 14 have not deliberately caused delay and delay caused by defendants is condonable. Hence, considering nature of proceeding and rule of natural justice, opportunity to file written

statement will have to be given to defendant no. 1 to 14 by setting aside no written statement order and Ex-parte order passed against them. As far as objection raised by plaintiff and period of delay caused by defendants is concerned, it can be compensated in terms of cost. Considering, the period of delay caused by defendants for filing written statement and reasons assigned in the present application, cost of Rs. 1500/- is sufficient to compensate plaintiff. Hence, in the interest of justice, following order is passed.

Order

1. Application is hereby allowed.
2. No written statement and Ex-parte order passed against defendant no. 1 to 14 is hereby set aside and defendant no.1 to 14 are permitted to file written statement on record subject cost of Rs.1500/-.
3. Defendant no.1 to 14 are hereby directed to pay cost amount on or before next date to plaintiff, failure to which application be treated as rejected.
4. Parties to note.

Date : 18/02/2025

(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".

Sd/-
[Sagar S. Ajabe]
Stenographer Grade-3

Dictated on : 18/02/2025
Transcribed on : 18/02/2025
Checked & signed on : 18/02/2025