

MHBI140005682023



R.C.S.No. 202/2023  
Hafij Noormohmad Tamboli + 3  
...Vs...  
Sureshkumar Motilal Kankariya +  
9.

**ORDER BELOW EXH. 34**  
(Passed on this 29/01/2026)

The defendant no. 1 has moved application for setting aside no W.S. order passed against him. By way of this application, defendant submit that he appeared in the proceeding of suit, however, due to his illness he could not file his written statement within 90 days. The present application is moved for setting aside No W.S. Order and permission to file W.S. If the application is rejected, then he would suffer irreparable loss which could not be compensated in terms of money. Defendant lastly prayed to allow the application.

2] Plaintiffs have filed their say below same exhibit and strongly opposed the application of defendant. Plaintiffs submit that the application is not as per law. The intentional delay caused by defendant to file his W.S. The order of no W.S. came to be passed on 08/01/2024. The defendant has not filed any documents in support of his contention regarding to illness. The application may kindly be rejected.

3] I have heard learned counsel for respective parties.

4] On perusal of record it is seen that the suit is instituted for Declaration, partition and Perpetual injunction. The defendant has moved this application for permission to file his W.S. on

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record. The plaintiffs have strongly opposed the application of defendant. It can be seen from the record of suit that, the parties have involved their interest in immovable property In such a situation opportunity to present defendant require to granted. Otherwise defendant would suffer irreparable loss which could not be compensated in terms of money. The plaintiffs will get an opportunity to lead additional evidence if any at appropriate stage. Therefore, no purpose would be served by rejecting the present application. The delay caused to file W.S. can be compensated in terms of costs. Hence, I proceed to pass following order-

**ORDER**

- 1] Application is allowed.
- 2] Defendant do pay Rs. 700/- costs to plaintiffs.
- 3] After payment of cost W.S. of defendants will be taken on record. If not paid by defendants then further order will be passed.

Date : 29/01/2026

(K. K. Khomane)  
Civil Judge (Jr.Dn.), Ashti

**CERTIFICATE**

This is to certify that the Presiding Judge has himself typed the Judgment / Order and contents of this copy are correct as per original Judgment / Order. I have duly examined and found to be correct as per the original. The Judgment / Order is uploaded by me after taking it in pen drive as per office order of Hon'ble District & Sessions Court, Beed bearing No./Jud/638/2022, dated 19/09/2022.

**Sd/-**  
U.D.Sasane,  
(Jr.Clerk)