

**IN THE COURT OF CIVIL JUDGE (JUNIOR DIVISION),**  
**SIRONCHA, DISTRICT - GADCHIROLI**  
*(Presided over by Vinay S. Mendhe)*

**R.C.S. No. 02/2021**

**Exh. 34**

Posakka Durgam & Others

.... **Plaintiffs**

- **Versus** -

Rambai Mudmadigela & others

.... **Defendants**

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**Appearances :-** Shri. J.M. Kondagorla, Advocate for the plaintiffs  
Shri. G.B. Marliwar, Advocate for the defendant No. 02  
& 03, Shri. S.S. Chittawar, Advocate for the defendant  
No. 04 to 12.

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**AN APPLICATION FOR SETTING ASIDE ORDER BELOW EXH.  
NO. 01 DATED 29/06/2021 AND GRANT PERMISSION TO FILE  
WRITTEN STATEMENT.**

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**Order Below Exh. 34**  
(Passed on 28/07/2021)

1] By this application, the defendant No. 04 to 12 are seeking the permission to file their written statement by setting aside an order passed below Exh.1 on 29/06/2021 regarding suit proceeded without written statement of defendants.

2] Read application and say. Heard, advocate Shri. J.M. Kondagorla for the plaintiffs and Shri. S.S. Chittawar advocate for the defendants. Perused record of the case.

3] Learned counsel for the defendants contended that, he was unable to file written statement within stipulated time due to impact of COVID-19. All the defendants are residing at different places. Thus, the

counsel was unable to contact them. Hence, he could not file written statement within time. However, now all the defendant have signed written statement. Hence, he prayed to allow the present application and to file written statement of defendant No. 04 to 12 on record. On the contrary Ld. Counsel for the plaintiff prayed to pass suitable order.

5] Perusal of application reveals that, due to effect of COVID-19, the defendants failed to filed their written statement. Further, plaintiff's counsel has not opposed the said application. Record reveals that, suit summons were served to defendant No. 04 to 10 on 19/01/2019, defendant No. 11 on 18/01/2019 and defendant 12 on 25/01/2021 vide bailiff report (Exh. No. 12 to 20). The defendants ought to have filed their written statement within 30 days from the date of service of summons. However, neither the defendants filed their written statement within 30 days nor filed any application for grant of time to file their written statement. However, it is to be noted that, suit is for partition and all the parties needs to be heard to adjudicate the dispute between the parties. Thus, considering the plausible cause of delay, I find that, application needs to be allowed in the interest of justice. The delay caused by the defendants is due to unforeseen circumstances and not due to act of the defendants. Thus, it is necessary to allow the present application. Hence, I pass the following order :

**∴∴ ORDER ∴∴**

- 1] The application (Exh. 34) for permission to file written statement is hereby allowed.
- 2] Order below Exh.1 dated 29/06/2021 regarding proceeding without w.s. of defendant No. 04 to 12 is hereby set aside.
- 4] The written statement of the defendants shall be treated as part and parcel of pleadings of the suit.  
(Order dictated and pronounced in open Court)

Place- Sironcha  
Dated:- 28/07/2021

(Vinay S. Mendhe)  
Civil Judge (Jr.Dn.)  
Sironcha.