

CNR NO. MHGA090005622021



IN THE COURT OF JOINT CIVIL JUDGE (JUNIOR DIVISION), CHAMORSHI
(Presided Over by Diksha D. Vighne)

Regular Civil Suit No. 28/2021

Shri. Amal Jotish Mandal,
 Age-55 Years, Occ.- Agriculturist,
 R/o. Vikrampur, Tq.-Chamorshi,
 Dist.-Gadchiroli

----- **Plaintiff**

-Versus-

1. Sau. Savita Nirapad Gain,
 Age-57 Years, Occ.- Agriculturist,
2. Sau. Aaduri Niraj Sarkar,
 Age-59 Years, Occ.- Agriculturist,
3. Nirapad Suren Gain,
 Age-62 Years, Occ.- Agriculturist,
 R/o. Vikrampur, Po. Sonapur,
 Tq.-Chamorshi, Dist.-Gadchiroli

----- **Defendants**

Appearance:-

Advocate for Plaintiff :- Shri. K.T. Satpute
 Advocate for Defendants :- Shri. P. M. Dhait

Order Below Exh No. 42

(Passed on 11/11/2022)

This is an application for setting aside no written statement order passed below Exh. no. 40 on 12-01-2022 and grant of permission to file written statement on record.

2. Plaintiff has submitted that he has filed this suit for Permanent Prohibitory Injunction and defendants had filed their written statement and

counter claim for partition and separate possession of suit property on 18-09-2021. Plaintiff had filed an application vide Exh. 40 for grant of time to file his written statement to the counter claim made by defendants. That application was rejected on 12-01-2022 and No Written statement order was passed.

3. Plaintiff further submit that he is a agriculturist. His family is dependent upon the income from agriculture. During this period plaintiff was busy in cultivating his land also he was having fever therefore he could not appear before court and did not filed his written statement within period of limitation. The delay was not deliberate. Therefore, he has submit that for proper adjudication of dispute he should be allow to file his written statement in the interest of justice.

4. On the other hand, learned advocate for defendants has opposed the application by saying that as already 90 days has passed. Reason is not bonafide. Hence, application is liable to be rejected.

5. Perused application and say thereon. Heard both parties and their advocates. On perusal of record it is seen that counter claim was filed on 18-09-2021 by defendants. Plaintiff was required to file his written statement to the counter claim within 90 days. But it is seen that even after lapsed of 90 days plaintiff could not file his written statement. Therefore, vide order below Exh. 40 no written statement order was passed against him. Considering the reason that plaintiff was busy in cultivating his land and he was suffering from fever therefore he could not appear before court and did not filed his written statement is a good ground for setting aside no written statement order because in plaint his occupation is written as agriculture and also his age is more than 55 years. In such circumstances, it is obvious that he was busy in cultivating his agriculture land because he and his family is depending upon income from agriculture. Also, at this age having fever or other viral disease is normal. But due to the delay made by

plaintiff it cause inconvenience to the defendants as well as it cause delay in proceeding of the case. Thus, application can be allow subject to cost on plaintiff for causing delay. Hence, I pass following order.

ORDER

1. Application is allowed subject to cost of Rs. 600/- payable to defendants.
2. Order of no written statement below Exh. 40 is set aside.
3. Permission has been granted to plaintiff to file his written statement to counter claim of defendants on record.

Date: 11.11.2022

(Diksha D. Vighne)
Jt. Civil Judge (Jr.Dn.),
Chamorshi.

CERTIFICATE

I affirm that the contents of this P.D.F. file are word to word same, as per original Judgment.

Name of Stenographer : Mr. M.R.Mohurle, Stenographer (Grade-3)

Name of Court : Jt. Civil Judge (Jr.Dn.) & JMFC, Chamorshi.

Date of Judgment : 11/11/2022.

Judgment checked and

signed by Presiding Officer on : 11/11/2022.

Judgment uploaded on : 14/11/2022.