

**ORDER BELOW EXHIBIT 59**

1. There is an application by defendant no.1 seeking setting aside of no WS order passed against him dated 18/06/2022.
2. It is the case of the defendant that, he appeared in the suit on 27/02/2020. But he did not file written statement. Then his counsel Girish Patel fell ill and died subsequently. Hence, he prayed for allowing the present application along with their WS.
3. The plaintiff has strongly objected the application vide his detailed say contending that the reason mentioned regarding the delay is not satisfactory. Hence, the present application deserves to be rejected and in the alternative be allowed subject to heavy cost.
4. Perused the record. Heard the learned advocates for the plaintiff and the defendant. The defendant appeared in the suit on 27/02/2020. Then there was COVID-19 spread in the country due to which the court functioning was disturbed. It is true that the adv. Girish Patel has died recently.
5. However, the original advocate of defendant no.1 was Brahmanekar. The reason given in the application is not justifiable. However, the suit is for partition and therefore the written statement is must for fair decision.
6. There is delay of almost 4 years. The written statement is necessary to decide the suit on merits. Hence, the delay could be condoned and the defendants deserve one opportunity. Therefore, it is necessary to have their WS on record.
7. As regards to the contention of the plaintiff that due to the lapse of time he had to suffer inconvenience, same shall be compensated by imposing

some amount of costs on the defendant. Hence, I proceed to pass following order.

**ORDER**

1. The application Exh.59 is allowed.
2. The no WS order passed below exhibit 01 dt 18/06/2022 is hereby set aside subject to total cost of Rs. 1000/- (Rupees One Thousand Only) to be paid by the defendant no.1 to the plaintiff.

Sd/-

Date: 11/03/2026

Jt. Civil Judge, J.D., Amgaon