

**Order Below Exh. 26  
(Dated 28-08-2024)**

The defendants filed present application and prayed for allow them to file their written statement. It is contended that they have appeared through their Ld. advocate but due to ill-health of defendant no. 2, they fail to file their written statement within statutory limit.

2. The learned Advocate for plaintiffs filed their say on present application and submitted that sufficient time and opportunity have been given to the defendants to file their written statement but they did not file reply deliberately. Further, defendants have not given specific reason fore delay. Therefore, they prayed that present application may kindly be rejected.

3. No doubt written statement or say has to be filed within statutory limit providing in the Code of Civil Procedure. But in the present matter due to ill-health of defendant no. 2, they failed to file their written statement within statutory limit.

4. Though the reasons mentioned in the application are not just, proper and reasonable but considering the principle of natural justice, leniency should be shown while deciding the present application.

5. Admittedly, there is a delay for filing this application. However, considering the nature of application, the opportunity should be given to the defendants for contesting the present suit. Though defendants not filed any documentary evidence which

supports their contentions. Then also, considering the grounds mentioned in the present application. It is proper to decide the suit on merit. The famous maxim i.e. “*Audi Alteram Partem*” means *Hear the other side. Both sides should be heard before decision is arrived at.* Considering the ambit of the maxim *supra*. Present application deserved to be allowed. Therefore, in the interest of justice and fair opportunity to condone the delay for filing their written statement. Accordingly, I pass the following order.

### **ORDER**

- 1] Application is allowed subject to cost of Rs.200/- each be pay to the plaintiffs.
- 2] The “*No written statement order*” passed at Exh. 1 is hereby set-aside and delay occurred to file written statement within statutory limit is hereby condoned.
- 3] Defendants are permitted to file their written statement.
- 4] Defendants are directed to pay the costs *supra* on or before next date without fail.

Date : 28.08.2024

(Dr. Vikram A. Avhad)  
Civil Judge Jr. Dn., Sadak Arjuni.

मी प्रमाणीत करतो की, या पीडीएफ फाईलमधील मजकुर व मुळ न्यायनिर्णय मधील मजकुर हा एकसारखाच आहे.

लघुलेखकाचे नाव : आर. डी. भुजाडे  
कोर्टाचे नाव : डॉ. वि. अं. आव्हाड,  
दिवाणी न्यायाधीश क. स्तर  
व प्रथम वर्ग न्यायदंडाधिकारी, सडक अर्जुनी

न्यायनिर्णय/आदेश दिनांक : २८.०८.२०२४  
पिठासीन अधिकारी यांनी सही केलेली तारीख : २८.०८.२०२४  
न्यायनिर्णय/आदेश अपलोड केलेली तारीख : २८.०८.२०२४