

ORDER BELOW EXH. 25
(Passed on 15th February, 2022)

This is an application filed by the defendant for permission to file his written statement.

2. It is the contentions of the defendant that he himself and his wife was suffering from illness, therefore, he could not filed written statement within stipulated period. Therefore, the defendant filed the present application for permission to file written statement.

3. The plaintiff filed say on the present application and stated that on 08.06.2021 suit summons duly served on the defendant. The plaintiff further stated that the defendant could not filed his written statement within stipulated time. The plaintiff further stated that the present application is not within limitation. Therefore, the plaintiff prayed to reject the present application.

4. Heard learned advocate Mr. S. K. Bawariya for the defendant. Also heard learned advocate Ku. A. T. Bhajipale for the plaintiff.

5. Perused the record. After perusal of record it appears that the plaintiff filed the present suit for perpetual injunction.

6. It is the contentions of the defendant that he himself and his wife was suffering from illness, therefore, he could not filed written statement within stipulated time. It is

pertinent to note here that the defendant has not filed any medical certificate or document on record. Therefore, reasons mentioned in the present application are not a proper and genuine. However, the present suit is relating to the immovable property. If the application is allowed no prejudice will cause to the plaintiff. Per contra it will avoid the multiplicity of the proceeding. For fair trial it is necessary to give an opportunity to the defendant to defend the suit. If an opportunity is not given to the defendant it will cause hardship to him. However, delay caused by the defendant for filing written statement can be compensated by imposing costs on the defendant. So in the interest of justice, I proceed to pass the following order.

ORDER

- 1) The application is allowed with costs.
- 2) The defendant is permitted to file his written statement subject to payment of costs of rupees 1,000/- (One Thousand Only) to the plaintiff.
- 3) If the defendant is failed to comply the present order on or before next date then the present order is automatically set aside.

[Pronounced and dictated in the open Court.]

Date : 15-02-2022

Sheaikh Wasim Akram
C.J.J.D.,Deori.