

ORDER BELOW EXH. 17
(Passed on 01st February, 2021)

This is an application filed by defendant no. 1 to 5 for seeking permission to file the written statement and reply to temporary injunction application.

2. Defendants averted that on 25.08.2020 they appeared in the present suit. Defendants further averted that after filing of present suit the plaintiff moved an amendment application, therefore, they could not file written statement as well as reply to temporary injunction application within stipulated time. Therefore, defendants filed the present application and sought permission for filing written statement as well as reply to temporary injunction application.

3. Say of the plaintiff was called. The plaintiff given no objection.

4. Heard learned advocate Mr. M. S. Shahare for defendants. Heard learned advocate Mr. M. C. Pogle for the plaintiff.

5. Perused the record. After perusal of record it appears that the present suit is filed by the plaintiff for partition, recovery of possession and declaration.

6. After perusal of record it appears that the plaintiff filed the present suit on 10.08.2020. After perusal of record it also appears that on 25.08.2020 defendant no. 1 to 5 appeared in the present suit through their advocate Mr. B. T.

Maskare. After perusal of record it also appears that the plaintiff filed an amendment application below Exh. 14 dated 25.08.2020. Accordingly, on 02.12.2020 an amendment application below Exh. 14 was allowed. Accordingly, on 09.12.2020 the plaintiff carried out said amendment and also filed fresh copy of plaint as well as temporary injunction application. After perusal of record it also appears that on 05.01.2021 defendants filed the present application. After perusal of record and present application it appears that reasons mentioned in the present application are genuine. Furthermore, due to said amendment application defendants could not file their written statement as well as reply to temporary injunction application within stipulated time. If the present 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 defendants to defend the suit. If an opportunity is not given to defendants it will cause hardship to them. In such circumstances, the present application needs to be decided. In such facts and circumstances as discussed above it is not proper to impose a cost on defendants. So in the interest of justice, I proceed to pass the following order.

ORDER

- 1) The present application is allowed.
- 2) Defendants are permitted to file their written statement as well as reply of temporary injunction application.

Date : 01-02-2021

Sheaikh Wasim Akram
Civil Judge Junior Division, Deori