

	R.C.S. No. 81/2024 Janardhan +2 Vs. Samadhan +8
--	--

ORDER BELOW EXH.19

This application is filed by defendant No. 7 and 8 for permission to file written statement by setting aside the deemed no written statement order.

2. The defendants submit that they were gone out of the station for admission purpose of their son therefore, there has been delay in filing written statement and prayed to grant permission.

3. The plaintiffs have filed say overleaf and submits that defendant No. 7 and 8 are served with suit summons. They have failed to file written statement despite sufficient opportunity. Hence, prayed to reject the application.

4. Perused application, say and record. Heard both sides.

5. Perusal of the record, it reflects that the suit is for removal of encroachment, possession and declaration and the suit summons came to be served upon the defendant No. 7 and 8 on 18.07.2024. However, the written statement has not been filed within the prescribed period under Order VIII Rule 1 of the Code of Civil Procedure, 1908 even after extending time i.e. till the expiration of 90 days from the date of service. Therefore, the suit is proceeded as deemed no written statement. The defendants filed the application on 07.12.2024 i.e. after lapse of 19 days. In the present case, summons were served on 18.07.2024 even after the outer time limit of filing written statement is considered the said statement ought to have been filed within the permitted extended period. Application is filed on 07.12.2024 i.e after lapse of statutory period. Significantly, the application is formal and does not disclose any specific reason. Thus, the conduct of the defendants reflects lack of due diligence.

6. At the same time, the suit is for removal of encroachment, possession and declaration and the dispute is to be decided on merits after considering the rival pleadings and evidence. Denial of permission to file written statement may lead to adjudication without defence of the defendants and may affect the fair trial. Therefore, though no sufficient cause is shown the Court considered it appropriate to grant an opportunity strictly by imposing heavy cost and on clear terms so that the delay is compensated and the plaintiffs are not prejudice. Considering the delay, the absence of explanation and to discourage of such practice the application deserves to be allowed subject to cost of Rs. 2,000/- and strict compliance within fixed time. Hence, I pass following order.

ORDER

1.	The application is allowed and the deemed no written statement order is set aside subject to payment of cost of Rs. 2,000/- (Rs. Two thousand only) to the plaintiffs on or before next date.
2.	Failure to comply with the order was automatically treated the suit without written statement and shall proceed accordingly.

Dt. 02.04.2026

(A. N. Khatade)
Civil Judge Junior Division,
Jafrabad.

CERTIFICATE

Affirm that the contents of this PDF file are word to word
as per original order.

Dt. 02.04.2026

Sd/-xxx
(Ahmad Shaikhh)
Stenographer.