

Kantiram Vs. Mehrajbi & ors.

ORDER PASSED BELOW EXH.13
(Passed on 30/09/2025)

This is an application filed by defendant Nos.1 to 4 for setting aside “No Written Statement order” passed against them below Exh.01 on 08.09.2025. In support of contents of present application, an affidavit is filed at Exh.14 stating reasons for failure to file Written Statement.

2] Ld. advocate for defendant Nos.1 to 4 submitted that, he is unable to file Written statement on behalf of the defendants due to his illness. In the interest of justice an opportunity of heard is required to given for the just decision of the matter. If the present application is rejected then they will be deprived for his valuable right to file W.S. Therefore, they prayed to set aside No W.S. order and permission for filing W.S.

3] Learned advocate for the paintiff filed his say overleaf the application and submitted that suitable order is passed.

4] Perused the application and say. Heard both sides. Perused the record. As per Order VIII, Rule 1 of the Code of Civil Procedure, the defendants shall file their written statement within 30 days from the date of service of summons. On failure, he shall be allowed to file the same on such other day as may be specified by the Court, for reasons to be recorded in writing, but which shall not be later than 90 days from the date of service of summons.

5] The record shows that, defendant Nos.1 to 4 failed to filed their written statement within stipulated time. Therefore, no written

statement order was passed against them. They have given reason for delay. So, considering the reasons in the application, I am of the opinion that, the non-filing of their written statement within statutory period is not intentional and deliberate. Further, now defendant Nos.1 to 4 are intending to proceed with and contest the suit by filing their written statement. It is settled principle of law that, no one should be condemned unheard. In the present case it is important to note that defendant Nos.1 to 4 filed their say alongwith this application. It seems that seriousness of defendant Nos.1 to 4 to participate in the proceeding. Further, in order to settle the actual controversy between the parties and to decide the suit on merit, an opportunity needs to be given to defendants to put up their defence. Therefore, I am of the view that if application is allowed then no prejudice will be caused to the plaintiff. On the other hand it would be helpful to the court to decide the matter on merit. Hence, I pass the following order.

ORDER

1. The application is allowed with costs.
2. No written statement order passed below Exh.1 on 08.09.2025 against defendant Nos.1 to 4 is hereby set aside subject to costs of payment of Rs.200/-
3. Cost amount be paid to the plaintiff.
4. Defendant Nos.1 to 4 are permitted to file their written statement after payment of costs.

Sd/-

(Smt. L. N. Panchal)

Jt. Civil Judge Junior Division,
Ghansawangi

Date: 30/09/2025