

MHKO070002032021



**REGULAR CIVIL SUIT NO. 40 / 2021**  
**Santosh Shinde and ano. Vs. Malutai Shinde and oth.**  
**ORDER BELOW EXH. NO. 21**

This is an application by defendant No. 2 for setting aside No Written Statement order passed against him. Say of plaintiff is overleaf the application.

**02.** Heard learned Advocates for both sides. Perused application and say. Also perused through record and proceeding.

**03.** Record shows that defendant No. 2 appeared on 05/03/2021, but could not file written statement, and therefore on 28.02.2022 No WS Order was passed against him. He filed this application on 05.04.2022 alongwith written statement.

**04.** According to defendant No. 2, his mother i.e. defendant No. 1 died during said period as well as there was lockdown due to pandemic of Covid - 2019, whereby he could not file written statement within stipulated time. Insofar as said reasons are concerned, there is not much contest.

**05.** The suit is for partition and separate possession as well as for perpetual injunction. Valuable rights of both the parties are involved in the litigation. This application is supported with affidavit as well as Written Statement. Hon'ble Apex Court in **Suo Motu Writ Petition (Civil) No.3/2020 In Re: Cognizance for Extension of Limitation** directed vide order dated 10/01/2022 that "the period from 15/03/2020 till 28/02/2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws

in respect of all judicial or quasi-judicial proceedings.” In view thereof, it is *prima facie* seen that the period from 01.03.2022 to 05.04.2022 was available to defendant No. 2 for filing written statement.

**06.** Considering the questions involved in the matter. It will be lawful and justified if there is fair contest of the matter. Also in the light of directions of Hon’ble Supreme Court, reason putforth by defendant No. 2 is justified. Accordingly, I am of the view that the application deserves to be allowed. Thus, following order.

**ORDER**

Application is allowed. Cost to be in the cause.

Dt. 05.08.2022  
Jaysingpur

( **Anand D. Karbhajan** )  
Jt. Civil Judge Junior Division,  
Jaysingpur, Tq. Shirol, Dist. Kolhapur.