

MHKO110009902022 	<u>ORDER BELOW EXH. 59</u> <u>IN RCS No. 132/2022</u> <u>Shrikant Balwant More</u> <u>Vs.</u> <u>Dhanaji Baburao Patil</u>
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The present application is filed by the defendant Nos. 22, 24(a), 24(b) and 31 to 34 for setting aside the no written statement order passed against them and for taking their written statement on record. The plaintiff has filed his say on the application itself and has strongly objected to it.

02. Perused the record. Heard the advocates for both the sides.

03. The Ld. Advocate for the defendant No. 22, 24(a), 24(b) and 31 to 34 submitted that, as the defendants do not have sufficient knowledge about the court matter, they did not meet the advocate in time and therefore, they were unable to provide the necessary information and documents in the present suit. Hence, they could not appear in the present suit on service of summons. Therefore, he prayed to allow the application.

04. The Ld. Advocate for the plaintiff strongly objected the said application. He submitted that, the application is not tenable in law and therefore, prayed to reject the same.

05. On perusal of record it prima facie appears that, as per the bailiff report at Exh. 15 and 19 the suit summons were served

on present defendants. However, since then they failed to appear in the present suit. Hence, no written statement order passed against defendant No. 31 and 34 on 23.11.2023. As the present suit is filed for partition and separate possession, therefore, a fair opportunity of hearing needs to be given to them in order to decide the suit on merits. As the hearing of the matter has yet not begun, no loss or prejudice will be caused to the plaintiff if the present application is allowed. However, inspite of having knowledge of the said suit, the present defendants have appeared in the present suit after a period of approximately 2 years and 7 months. The said casual attitude on the part of the defendant No. 22, 24(a), 24(b) and 31 to 34 cannot be overlooked. The plaintiff needs to be compensated by imposing cost on present defendants. Hence, in the interest of justice, the following order is passed:-

ORDER

1. Application at Exh. 59 is allowed.
2. The written statement and say filed by the defendants be read & recorded on payment of cost of Rs. 500/- (Rupees Five Hundred only) to the plaintiff on or before next date.

Peth-Vadgaon.

Date : 08.04.2025.

Sd/-
(R. S. More)

3rd Jt. Civil Judge, Jr. Dn, Peth-Vadgaon.