

MHKO110017202023



Reg. Civil Suit No. 222/2023.

(CNR No.MHKO110017202023)

Order Below Exh.19.

(Smt Bayakka Jadhav Vs Shri Rajendra Thakar)

01. The present application is made on behalf of defendants No.3, with the prayer to set aside 'No Written Statement' order passed against him and allow him to file his written statement.

02. It is further submission of defendant no.3 that, he was suffering from Kidney disease and hence it could not possible to him to file his written statement within statutory period. In result, 'No Written Statement' order was passed against him on 16/04/2024. He further submitted that, if an opportunity to file his written statement is denied, prejudice will be caused to him. To finally decide the suit on merit, he must be allowed to file his written statement. He finally submitted to set aside 'No Written Statement' order and allow him to file his written statement.

03. The plaintiff filed hew say on **Exh.20** and objected the application by stating that, contents of the application are not true and correct. Defendant no.3 appeared in the matter through his learned advocate on 20/11/2023 but did not file his written statement. Defendant no.3 deliberately caused delay in filing written statement. Hence plaintiff prayed to reject the application. Alternatively, she prayed for heavy costs.

04. Perused the application. Say there on. Heard to learned advocate for both the sides.

05. Before dealing with the instant application it is necessary to consider here that, to decide the controversy involved in the suit, Court has to summarize the said dispute by framing issues. It is needless to say here that, issues have arose when material preposition is offering by one party and denied by the other party. To come to the conclusion the material preposition which offered by one party and denied by the other party, Court has to consider the rival pleadings of both parties. For that purpose it is necessary to give permission to the defendants to file their written statement, in absence of which it is not possible for the Court to come to the conclusion, what is the real dispute existed between the parties. So considering the above legal aspect, I am of the candid opinion that, it will be in the interest of justice to allow defendants Nos.3 to file his written statement. But considering the time taken by the defendant to file this application, it will be also necessary to impose some costs upon him to compensate the hardship caused to the plaintiff. Hence, considering above discussion, I proceed to pass the following order -

ORDER.

1. The application below **Exh.19** is hereby allowed.
2. 'No Written Statement' order vide **Exh.01**, dated 16/04/2024, passed against defendants Nos.3, is hereby set aside subject to costs of Rs.600/- (Rs. Six Hundred). It be paid to the plaintiff.
3. The written statement filed by the defendant No.3, be taken on record after the payment of costs.
4. The application below **Exh.19** is disposed off accordingly.

(S. A. Kulkarni)

Civil Judge Junior Division,
Peth-Vadgaon.

Date : 02/07/2025.