


<p>MHKO110017762022</p> 	<p style="text-align: center;"><u>Order Below Exh. 33</u></p> <p style="text-align: center;"><u>in R.C.S. No. 229/2022</u></p> <p style="text-align: center;"><u>Nandkumar Mahadev Mali</u></p> <p style="text-align: center;"><u>Vs.</u></p> <p style="text-align: center;"><u>Mahadev Shripati Mali and Ors.</u></p>
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The present application is filed by the defendants for setting aside the no written statement order dated 17.08.2023 passed against them. The plaintiff has filed his say on the overleaf of the application and has strongly objected to it.

02. Perused the record. Heard the Ld. advocate for both sides.

03. The learned advocate for the defendants submitted that, present suit is filed for partition and perpetual injunction against the defendants. The Defendant no. 1 to 5 have appeared in the present suit on 11.11.2022. Due to financial difficulties and ignorance of law the defendants could not file their written statement within the statutory period. If the written statement is not taken on record, it will result in irreparable loss to the defendants. Hence, they prayed to allow the application.

04. The learned advocate for the plaintiff submitted that, no proper reason is mentioned in the application. There is delay of more than 2 years for filing the written statement of defendants on record. The defendants have deliberately caused delay to harass the plaintiff. Hence, he prayed to reject the application with cost.

05. On perusal of the record, it is seen that, as per bailiff

report suit summons were served upon defendant no. 1 to 3 on 09.11.2022 and defendant no. 5 on 10.11.2022. They appeared in the said matter on 11.11.2022. However, since then they have failed to take effective steps for filing their written statement to the suit on record. Hence, no written statement order is passed against defendant on 17.08.2023 below Exh.1. Prima facie there appears to be a delay of approximately 2 years 8 months in filing the application for taking the written statement on record by defendants.

06. In order to decide the matter on merits, for proper and effective adjudication, it is necessary to hear the both sides by giving them an equal opportunity. Ignorance of law pleaded by the defendants cannot be a reason to condone the delay in filing the written statement and for setting aside the no written statement order passed against them. However, in order to give a fair opportunity of hearing to the defendants, their written statement needs to be taken on record even after expiry of stipulated period. However, the delay mentioned above in filing the written statement is considered, the plaintiff needs to be compensated by imposing cost on defendants. Hence, the following order is passed:-

ORDER

1.	Application at Exh. 33 is hereby allowed.
2.	The delay caused in filing the written statement on record is set aside, subject to payment of

	cost of Rs. 1000/- (Only Rupees One thousand only) payable to the plaintiff.
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Date : 26/11/2025
Place: Peth-Vadgaon

sd/-
(R. S. More)
3rd Jt. Civil Judge J. D., Peth-Vadgaon