

**ORDER BELOW EXH.23 IN REG.CIVIL SUIT NO.94/2011**

(Kashinath Jadhav Vs. Bajirao Jadhav)

By this application, defendant nos.5, 6 and 7 have prayed for setting aside no written statement order passed against them. As per the application, these defendants are farmers not having knowledge of law and they are in possession of the suit property as per the partition, due to which they had not filed their written statement within time. Today defendants have filed written statement and so the said written statement is necessary to accept for the interest of justice. So defendant nos. 5, 6 and 7 have prayed for setting aside no written statement order passed against them.

2] Plaintiffs have opposed this application by filing say. As per the say of the plaintiff, no written statement order has been passed on 26/09/2011 and the reason mentioned in this application is false and not satisfactory. So plaintiffs have prayed for rejection of the application and in the alternative, plaintiffs have prayed for maximum compensatory costs from the defendants, if the application is allowed.

3] Heard both the sides and perused the record. Perusal of record shows that ex-parte order came to be passed against these defendants on 29/08/2011 and thereafter, this suit is pending for hearing. This application is supported by the affidavit of defendant no.5 Subhash Dagadu Jadhav. Perusal of record shows that, this suit is for partition. So, considering the relationship in between the parties and for decision of this suit on merits, the reason mentioned in this application for the delay and the period of delay, it appears to my mind that for the proper adjudication of the dispute between the parties an opportunity of filing written statement is necessary to give to defendant nos. 5, 6 and 7. At the same time, considering the long period of delay, these defendants are liable to pay costs to the plaintiffs for the said delay. Further, if the opportunity of filing written statement is given to the

defendants, then it will be helpful for the decision of this suit on merits and it will curtail future litigations in between the parties. So, considering the above entire facts and circumstances and period of delay, I proceed to pass the following order.

**ORDER**

1. Application is hereby allowed.
2. The ex-parte order passed against defendant nos. 5, 6 and 7 vide exh.1 is hereby set aside subject to the costs of Rs.2,000/- (Rupees two thousand only) payable to plaintiffs.

Date :- 14-12-2016

Sd/-  
(V.A.Awaghade)  
Jt. Civil Judge Junior Division,  
Panhala

-: **CERTIFICATE** :-

I affirm that the contents of the P.D.F. file order are same, word to word, as per the original Order.

Name of the Stenographer	--
Name of Court	Shri. V.A.Awaghade
Date of Dictation	14-12-2016
Order signed by the P.O. on	15-12-2016
Order uploaded on	28-12-2016