



Order Below Exh.18 In R.C.S. No.170/2023  
(Rama Gundu Mane v. Tukaram Babu Mane and Ors.)

Defendant No.2 has filed present application for setting aside 'no written statement' order passed against him.

02. Defendant No.2 contended that, due to his old age, he could not collect necessary documents for filing of written statement within prescribed period of limitation. Hence, due to above mentioned justifiable and unavoidable circumstances, he could not file his written statement within period of limitation. His written statement is necessary for the just decision of the suit. Hence, his written statement may be taken on record. He lastly prayed that, the application may be allowed.

03. The plaintiff has strongly resisted present application by filing his say on overleaf of present application. He contended that, reasons mentioned in the application are not justifiable. The application is devoid of merits. Hence, he prayed that, the application may be rejected with cost. He alternatively contended that, if the Court comes to conclusion to allow present application, cost of Rs.10,000/- may be imposed on defendant No.2 while allowing present application.

04. Heard both sides, at length. They have argued in consonance of their pleadings.

05. On perusal of record and proceeding it appears that, this is a suit for declaration. It shows that, in spite of ample opportunities being given, defendant No.2 failed to file his written statement within stipulated period of time. Hence, as per order passed below Exh.1 dated 16.07.2024, the suit proceeded further without written statement of defendant No.2.

However, reasons mentioned by defendant No.2 for non-filing of written statement within stipulated time are justifiable. Hence, in view of reasons mentioned in the application, submissions of both sides as well as considering nature of the suit and interest of parties involved therein, it would be just and proper to give opportunity to defendant No.2 to contest the suit on merit by filing on record his written statement. Defendant No.2 has filed this application after considerable lapse of time. However, the delay caused by defendant No.2 can be compensated by imposing cost upon him. Considering the delay caused, it would be just and proper to impose cost of Rs.300/- on defendant No.2, which shall be payable to the plaintiff. Resultantly, I pass following order :-

**:: ORDER ::**

1. Application (Exh.18) is hereby allowed subject to costs of Rs.300/- (Rupees Three Hundred Only) payable to the plaintiff.
2. Payment of cost shall be condition precedent for taking on record written statement of defendant No.2.
3. Accordingly, application (Exh.18) is disposed of.

(Dictated and pronounced in the Open Court).

Date : 10.10.2025.

( Balasaheb S. Gaikwad )  
Civil Judge, Junior Division,  
Kurundwad.