



Order Below Exh.13 In R.C.S. No.73/2024
(Tammanna Shankar Kumbhar v. Dhondiram Rama
Kumbhar and Ors.)

Defendant Nos.1 to 4 have filed present application for setting aside 'no written statement' order passed against them.

02. Defendants contended that, they could not collect necessary documents for filing of their written statement within prescribed period of limitation. Hence, due to above mentioned justifiable and unavoidable circumstances, they could not file their written statement within period of limitation. Their written statement is necessary for the just decision of the suit. Hence, their written statement may be taken on record. They 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 prayed that, if the Court comes to the conclusion to allow present application, heavy cost may be imposed upon defendants.

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 perpetual injunction and specific performance. It shows that, in spite of ample opportunities being given, defendant Nos.1 to 4 failed to file their written statement within stipulated period of time. Hence, as per order passed below Exh.1 dated 27.03.2025 the suit proceeded further without written statement of defendant Nos.1 to 4. However, reasons

mentioned by defendant Nos.1 to 4 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 Nos.1 to 4 to contest the suit on merit by filing on record their written statement. Defendant Nos.1 to 4 have filed this application after considerable lapse of time. However, the delay caused by defendant Nos.1 to 4 can be compensated by imposing cost upon them. Considering the delay caused, it would be just and proper to impose cost of Rs.300/- on defendant Nos.1 to 4, which shall be payable to the plaintiff. Resultantly, I pass following order :—

:: ORDER ::

1. Application (Exh.13) 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 Nos.1 to 4.
3. Accordingly, application (Exh.13) is disposed of.

(Dictated and pronounced in the Open Court).

Date: 03.05.2025.

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