

CNR : MHKO19-000707-2016

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Reg. Civil Suit No. 145 /2016

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**ORDER BELOW EXH. 30**

Vide this application defendant 1 has prayed for setting aside “No Written Statement Order” passed against him on 28/02/2017.

2. As per defendant he is aged and ill person. Thus, he could not meet and instruct his advocate in time in order to enable him to prepare and file written statement on record. Consequently, “No Written Statement Order” is passed against defendant. Hence, present application.

3. Vide his say Ld. Advocate for plaintiff combated the application contending that the defendant is prolonging the hearing of suit. The grounds mentioned in application are false and frivolous. Ultimately, he has prayed for rejection of application.

4. Heard both sides. Perused record. Record reveals that defendant 1 was served with suit summons on 03/01/2017. Subsequent thereto he appeared in the proceeding vide his advocate on 17/01/2017. Further as defendant 1 failed to file his written statement in time on 28/02/2017 “No Written Statement Order” is passed against him at Exh.1.

5. The suit is for partition, possession and permanent injunction. Thus, considering nature of dispute in order to decide the real dispute between the parties on merits it is necessary to grant an opportunity to the defendant to put up his defense. Thus, in view of

facts and circumstances of the case it will be justifiable to take a liberal view while deciding this application. No doubt, that delay has been caused due to inaction or negligence on the part of defendant. However, said delay can be compensated by imposing appropriate cost. Hence, following order :-

**Order**

1. Application is allowed subject to cost of Rs. 300/- payable at Legal Aid account Radhanagari.

Radhanagari.

Date : 27-02-2018.

( M. H. Shitole )  
Civil Judge, Jr.Dn., Radhanagari.

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

Name of the Stenographer	U.S.Telang
Name of Court	Civil Judge, Junior Division & Judicial Magistrate, First Class, Radhanagari.
Date of Dictation	27-02-2018.
Order signed by the P.O. On	27-02-2018.
Order uploaded on	27-02-2018.