The defendant Nos. 5 to 8 and 15 have filed the present application for setting aside 'No W.S.' order passed against them. According to them, due to illness of defendant No.7 and relative of defendant No.15 they could not file their written statement within time. Hence, they prayed to allow the present application.

**02.** The application is strongly opposed by the plaintiffs on the ground that, the reasons given in the application are incorrect, hence, he prayed for rejection of present application with cost of Rs.10,000/-.

**03.** Perused the application and say. After going through the record it reveals that, the summons was served on defendant no.4 on 17.08.2024. It was expected from them that they should have filed their written statement on or before 17.11.2024. The delay for filing the present application is near about more than 2 months.

**04.** Order VIII Rule 1 of the Civil Procedure Code, 1908 is directory and not mandatory. In order to decide the suit on merit the written statement of the defendant No.4 is necessary. If permission is granted to defendant Nos. 5 to 8 and 15 for filing their written statement no serious prejudice will be caused to other side, on the contrary it will be helpful to decide the suit on merit. If any inconvenience is caused to plaintiffs, it can be compensated by

imposing costs on defendant Nos.5 to 8 and 15. Hence, following order :-

**O R D E R**

01. The application is allowed.

02. The “No W.S.” order passed against defendant Nos. 5 to 8 and 15 is set aside.

03. The defendant Nos. 5 to 8 and 15 are permitted to file their written statement on payment of cost of Rs. 300/- to the plaintiffs.

Honey Mukesh Patel

Digitally signed by Honey Mukesh Patel
Date: 2025.01.22 12:55:18 +0530

(H.M.Patel)

Date :- 20/01/2025.

Ext.Jt.Civil Judge Junior Division,
Kale-Kheirwade