

**Common Order below Exh.21 & 23 in R.C.S. No.692 of 2023**(Passed on this 26th day of February, 2024)**Babu @ Balu + 1 -Vrs.- Mansha & Ors.**

CNR NO.MHLA060013662023

Defendant No.01 has filed the present application for condonation of delay and permission to file written statement on record by setting aside 'No Written Statement' order passed against him below Exh.01 dated 20.10.2023.

02. Defendant No.01 submitted that, he is agriculturist. He did not get the essential documents related to the present suit in time. So, he was unable to provide the necessary information to his Advocate. He could not file his written statement within stipulated time. So, this Court has passed 'No Written Statement' order against him on 20.10.2023. There is a delay of 02 months 11 days caused in filing his written statement. The delay caused is not intentional. If the present application is not allowed, he will suffer an irreparable loss. The delay caused be condoned in the interest of justice. Therefore, he prayed to condone the delay and grant permission to adduce his written statement on record by setting aside 'No Written Statement' order passed against him.

03. On the contrary, the plaintiffs have filed their say on the overleaf of the applications (**Exh.21 & 23**). They contended that, the present application is imaginary and its contents are false. Summons were duly served upon defendant No.1 on 21.07.2023. Thereafter, this Court has given sufficient opportunities to him for filing his written statement. Despite he failed to file his written statement within limitation. So, this Court has passed 'No Written Statement' order against him on 20.10.2023. Further, defendant No.1 has not mentioned the details regarding the essential documents due to which he failed to file his W.S. within time. The reason mentioned in the application is false. He has intentionally not filed his W.S. within time only to prolong the matter. Therefore, they prayed to reject both applications (**Exh.21 & 23**).

04. Heard Ld Advocates of both sides. They argued in consonance with their applications and say.

05. Perused the application, say of plaintiffs and record of the present suit. On perusal, it appears that suit summons were served upon defendant No.01 on 21.07.2023 vide bailiff report (**Exh.10**). In spite of sufficient opportunities given to him, he failed to file his written statement within prescribed period of time of 90 days as provided in Order VIII Rule 1 of Code of Civil Procedure. His time to file written statement expired on 21.10.2023. The present application came to be filed on 01.01.2024. There is a delay of 2 months and 11 days caused in filing his written statement. However, the applications are supported by affidavit. Therefore, there is no reason to disbelieve the contention of defendant No.1. Moreover, the suit is for declaration of ownership and perpetual injunction. Rights of the parties are involved in the present suit. Therefore, it would be just and proper to give opportunity to defendant No.01 to put up his case by filing written statement. This would help the Court in deciding the controversy on merits. Moreover, the suit is at initial stage. Hence, for this reason the application deserves to be allowed and delay caused shall be condoned. However, for causing delay, cost has to be saddled on defendant No.1. Hence, I proceed to pass the following order.

ORDER

- 1) Applications (**Exh.21 & 23**) are allowed subject to cost of Rs.400/- (Rupees Four Hundred Only) to be paid by defendant No.01 to the plaintiffs.
- 2) Delay caused is hereby condoned.
- 3) On payment of cost, the order of 'No Written Statement' passed below Exh.01 dated 20.10.2023 shall be set aside and the written statement shall be taken on record.

(Dictated and pronounced in open Court).

Place : Ahmedpur.

Date : 26.02.2024.

(K. B. Gadiwale)

Jt. Civil Judge Junior Division,
(Court No.04) Tq.Ahmedpur
Dist.Latur.