

MHLA11-000095-2022

Order below application vide Exh.20 in Spl C.S No.12/2022
Bank of Maharashtra.Vs. Omkar Birnale.

1. Perused contents of the application and affidavit vide Exh.21 say thereon. Heard to learned advocates for the parties. They submitted contents of application and say thereon respectively. Perused the record.

2. The application discloses that, the defendants are living out of station. They have not received suit summons. Even though they appeared after receiving information regarding the present suit from their well wishers. They remained unable to file their written statement as they have not received material documents and defendant No.2 is old aged and suffering from illness. Similarly defendant No.1 remains busy for providing medical treatment to defendant No.2. Lastly, the defendants prayed to set-aside order dated 15.01.2025 passed below Exh.01, proceeding the suit further without their written statement. The plaintiff contended that there is no document regarding illness. The defendants are prolonging the matter, etc. The defendants lastly prayed to reject the application.

3. Undoubtedly, there is delay on part of the defendants. However, the defendant filed affidavit vide Exh.21 in support to the present application, whereby defendant No.1 affirms that They remained unable to file their written statement as they have not received material documents and defendant

No.2 is old aged and suffering from illness. Similarly defendant No.1 remains busy for providing medical treatment to defendant No.2.

4. Moreover, the present suit is for recovery of amount filed by the Bank. Considering averment in the plaint, opportunity of hearing will have to be given to the defendants. Furthermore, affording such opportunity will helpful to decide real controversies between the parties finally on merits and to avoid multiplicity of suit and proceedings. The parties will have an opportunities to lead their evidence as well as cross-examine the witnesses of each others. Therefore, no prejudice would be caused to the plaintiff, if the opportunity is afforded as aforesaid. . Hence, in the interest of justice, order dated 15.01.2025 passed below Exh.01, proceeding the suit further without written statement of the defendants is hereby set-aside.

Date :07/01/2026
Place: Nilanga

(R. V. Pande)
Civil Judge, Senior Division, Nilanga,
District Latur.