



R.C.S. No. 817/2022
Chabubai Vs.Sarita and others
CNR No.MHLA110003932022

ORDER PASSED BELOW EXH.NO.30

- 1) Perused the application submitted by the defendant No.4 for grant of permission to file the written statement by setting aside no w.s. order.
- 2) Perused the record. Record shows that defendant no.4 was duly served on 17/06/2022. He appeared but failed to file his written statement within prescribed time limit.
- 3) Perused the application of defendant and say of other side. The plaintiff has strongly objected for taking on record the written statement of defendant no.4 stating that the defendant intentionally avoided to file written statement. So, application be rejected with cost.
- 4) It is well settled that the provisions of O-VIII R-1 of Code Of Civil Procedure are directory and not mandatory and it can be stretched in rare and exceptional cases. Defendant no.4 has filed this application along with his written statement on 21/09/2022. It is stated that the delay caused is not intentional or deliberate. The plaintiff has not produced the documents of ownership alongwith present suit. So, defendant could not filed their written statement within prescribed time.
- 5) The present suit is for partition and possession. The

defendant No.4 came with his written statement on 21/09/2022. The valuable civil rights of the defendant are involved in the present suit. If the opportunity is not granted to the defendant no.4 to protest the suit claim, irreparable loss will be caused to him. On the other hand no prejudice would be caused to the plaintiff, if written statement of defendant no.4 is taken on record. Hence, following order is passed to meet the ends of justice.

ORDER

- 1) Application is granted.
- 2) No order as to costs.

Place: Nilanga.
Date : 21/09/2022.

(Anand S. Munde)
Jt. Civil Judge, Sr. Division
Nilanga.