

ORDER PASSED BELOW EXH.NO.37
(CNR NO.MHLA110005192022)

- 1) Perused the application submitted by the defendant no.3 for grant of permission to file written statement by setting aside ex-parte order.
- 2) Perused the record. Record shows that defendant no.3 was duly served with summons on 23/07/2022, but he failed to appear and file his written statement within prescribed time limit. Thereafter, the suit proceeded ex-parte against him.
- 3) Perused the application of defendant no.3. It is submitted that the defendant no.3 was suffering from illness, so he could appear before the court and file written statement. In such circumstances ex-parte order may kindly be set aside and written statement of the defendant no.3 may be accepted for fair trial.
- 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.3 has filed this application along with his written statement on 10/10/2022. The present suit is for perpetual injunction. The civil rights of the defendant no.3 are involved in the present suit. If the opportunity is not granted to the defendant to protest the suit claim, irreparable loss will be caused to him. It is necessary to condone the delay in the interest of justice for the proper adjudication of the suit. Hence, following order is passed to meet the ends of justice.

ORDER

Application for setting aside ex-parte order is granted
subject to costs of Rs.100/- (Rupees One hundred Only).

Place: Nilanga.
Date :10/10/2022.

(Anand S. Munde)
Jt.Civil Judge,S.D., Nilanga