



R.C.S. No.449/2020
Sayaji Vs. Shivaji & others
CNR No.MHLA110013602022

ORDER PASSED BELOW EXH.NO. 27

- 1) Perused the application submitted by the defendant nos. 1, 5 and 6 for grant of permission to file the written statement by setting aside no w.s. order.
- 2) Perused the record. Record shows that defendants were duly served on 19/12/2020. They appeared but failed to file written statement within prescribed time limit.
- 3) It is stated that, the defendant no. 1 was suffering from jaundice while defendant no. 5 was suffering from paralysis since last more than two years. The defendant no. 6 was sick due to loss of hemoglobin. So they were unable to move outside the house during the pandemic of Covid-19 and could not file their written statement within prescribed time.
- 4) The plaintiffs filed their say and submitted that, the application is filed only to prolong the trial. The plaintiffs have adduced their evidence. So, application may be rejected with cost.
- 5) 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. Defendants have filed this application along with their written statement on today itself.

6) The present suit is for partition and separate possession. The defendants came with their written statement on today itself. There is delay of approximately more than two years. It is held by the Hon'ble Supreme Court in Misc. Application No.665/2021 that, in computing the period of limitation the period from 15/03/2020 till 02/10/2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15/03/2020 if any shall be available with effect from 03/10/2021. In the present case in hand, the period of limitation will start from 03/10/2021. Thus, there is delay of approximately one year & three months in filing the written statement by the defendants. If the opportunity is not granted to the defendants to protest the suit claim, irreparable loss will be caused to them. On the other hand no prejudice would be caused to the plaintiff, if written statement of defendants is taken on record. Hence, following order is passed to meet the ends of justice.

ORDER

Application is granted subject to cost of Rs.1000/-

(In words Rs. One Thousand only).

Place: Nilanga.
Date : 17/04/2023.

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