



ORDER BELOW EXH.35

Defendant No.4 in counter claim has filed the present application to set aside No Written Statement (W.S.) order passed against him.

2. It is contended by Defendant No.4 that initially the suit is filed for declaration and perpetual injunction in respect of suit property. Suit summons served to defendant No.4. Defendant No.4 was old aged and he is suffering from Blood Pressure and diabetes. He was taking bed rest as per advice of his doctor. Therefore, he failed to file his written statement. Lastly, he prayed for allowing the application.

3. The plaintiff filed to his say behind this application. He submitted that the suit summons served to defendant No.4. Defendant No.4 has filed this application for written statement to the counter claim. The counter-claim is limited only against plaintiff. Another defendants can not join as defendants in counter-claim. There is no need to file written-

statement. Hence, he prayed to reject this application.

4. Heard the Ld. Advocate of respective parties at length.

5. Perused the record. It appears that suit is filed for declaration and perpetual injunction in respect of suit property. Defendant No.4 is joined in counter-claim. He has served summons. Then, defendant No.4 was absent. Hence, no written statement order passed against them on 21.07.2025. He is required to file his written statement within 30 days from the date of filed counter-claim. Defendant No.4 had opportunity to file his written statement but he failed. The suit is filed for declaration and perpetual injunction in respect of suit property. There may be rights of defendant No.4 are involved in this property. If the application is rejected then defendant No.4 definitely will suffer irreparable loss as he will be deprived from putting his say and written statement. Therefore, considering the reason mentioned in the application and the stage of suit, it will be proper to allow the application with costs. Hence, I pass the following order-

ORDER

1. Application at **Exh.35** is allowed.

2. No written statement order passed against the defendant No.4 is set aside subject to costs of Rs. 300/- to be paid to plaintiff on or before next date.
3. Upon failure to comply this order, No written statement order will be continue.

Date : 09.06.2026.
Place : Nilanga.

(Smt. A. S. Gunjawate)
Jt. Civil Judge, Jr. Divi., Nilanga.
District Latur.