

ORDER BELOW EXH.54.
MHLA15000155-2014

This is suit for declaration, perpetual injunction and cancellation of sale deed against defendant. In the present matter, defendant no. 1/8 and 1/9 are served with suit summons on 30/12/2021 and 09.01.2022 vide bailiff reports at Exh.45 and 46 respectively. They appeared in the suit on 11/01/2022 vide pursis at Exh.47. But failed to file their written statement within statutory period of limitation. Hence, suit was proceeded without written statement of defendant no. 1/8 and 1/9. Hence, defendant no. 1/8 and 1/9 have filed the present application to setting aside the no Written Statement order and also prayed to take their written statement on record.

2] It is stated in application that, due to unavoidable reason defendant no. 1/8 and 1/9 could not able to file the written statement within statutory period. However, original defendant has filed his written statement. Hence, the defendant no. 1/8 and 1/9 prayed to allow this application for con-donation of delay and to take written statement on record.

3] The plaintiff filed his say on the back-leaf of the application and contended that, application is not tenable in the eye of law. delay was intentional and reason for delay is not stated by the present defendant no. 1/8 and 1/9. Hence, prayed to reject the application with costs.

4] Read the application and say thereon. Heard learned Advocate for both sides. It appears from record that, suit is filed for declaration, perpetual injunction and cancellation of sale deed against

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defendant. It also appears from record that defendant no. 1/8 and 1/9 have failed to file written statement within prescribed period of limitation.

5] However, for the conclusive decision of the suit, it is necessary to grant the opportunity to defendant no. 1/8 and 1/9 to defend the suit by filing their written statement. Subject matter of the suit is immovable property and valuable rights of the parties are involved in it. The reason stated by the defendant no. 1/8 and 1/9 for delay is satisfactory. By granting permission for filing written statement to present defendant no. 1/8 and 1/9 will not cause any kind of loss or prejudice to the plaintiff. On the other hand, it will help to the court to decide the suit on merit. So, present application deserves to be allowed. Hence, I pass following order.

ORDER

1. Application stands allowed subject to cost of Rs.100/-.
2. The present defendant no. 1/8 and 1/9 are directed to pay the cost amount to the plaintiffs on or before next date.
3. After payment of cost the written statement of defendant no. 1/8 and 1/9 shall form part of record.

Date :- 25/04/2024

(M.S. Luniya)
Jt. C.J.J.D. Chakur.

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C E R T I F I C A T E

I affirm that the contents of this P. D.F file order are same word for word as per original order.

Name of Steno	: M.B. Pathan
Court Name	: M.S. Luniya, Jt.C.J.J.D., Chakur.
Order Date	: 25/04/2024
Order signed by presiding officer on	: 25/04/2024
Order uploaded on	: 25/04/2024