



RCS No. 212/2022
Jananbai VS. Rama & Ors.

ORDER BELOW EXH.24
MHLA150009552022

This is suit for partition, separate possession. declaration and perpetual injunction against defendants. In the present matter, defendant No.1/1 to 1/3, 2/6 and 3 are served with suit summons on 16/09/2022 vide bailiff report at Exh.14 and Exh.15. They appeared in the suit on 29/09/2022 vide Exh.16. But failed to file their written statement within statutory period of limitation. Hence, suit was proceeded without written statement of defendant No.1/1 to 1/3, 2/6 and 3. Hence, defendant No.1/1 to 1/3, 2/6 and 3 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 unavailability of necessary documents, the defendant No.1/1 to 1/3, 2/6 and 3 could not able to file the written statement within statutory period. Hence, the defendant No.1/1 to 1/3, 2/6 and 3 prayed to allow this application for con-donation of delay, setting aside the no Written Statement order and to take written statement on record.

3] The plaintiffs filed his say on the back-leaf of the application and objected the application.

4] Read the application and say thereon. Heard learned Advocate for both sides. It appears from record that, suit is filed for partition, separate possession, declaration and perpetual injunction against defendants. It also appears from record that defendant No.1/1 to 1/3, 2/6 and 3 have failed to file written statement within prescribed period of limitation. Present application is supported with



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affidavit. No counter affidavit file by the plaintiff in support of his say.

5] However, for the conclusive decision of the suit, it is necessary to grant the opportunity to defendant No.1/1 to 1/3, 2/6 and 3 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.1/1 to 1/3, 2/6 and 3 for delay is satisfactory. By granting permission for filing written statement to present defendant No.1/1 to 1/3, 2/6 and 3 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.200/-
2. The present defendant No.1/1 to 1/3, 2/6 and 3 are directed to pay the cost amount to the plaintiff on or before next date.
3. After payment of cost the written statement of defendant No.1/1 to 1/3, 2/6 and 3 shall form part of record.

Date :- 18/08/2023

(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 Jr. Clerk	: Santosh Sanjayrao Patil
Court Name	: M.S. Luniya, Jt.C.J.J.D., Chakur.
Order Date	: 18/08/2023
Order signed by presiding officer on	: 18/08/2023
Order uploaded on	: 18/08/2023