

CNRNO-MHLA150009932017

**ORDER BELOW EXH.103.**

1. This application is filed by defendants no.1, 15 & 18 for setting aside no W.S. order and accept the W.S. Plaintiff has opposed application.

2. It is submitted by defendants that, they could not file their written statement due to ill health of defendant no.1 and 15 and unavailability of necessary documents. The defendant no. 18 was only caretaker of defendant no.1 and 15. Therefore no W.S. order has been passed below exh.1 against these defendants on 17.11.2018. By the above mentioned reason defendants could not contacted to their advocate and not file their W.S. within stipulated period. Property in the suit are valuable one and to protect the rights of defendants they prayed for allow the application.

3. Per contra, it is submitted by plaintiff that, defendants willfully and intentionally for prolonging the matter avoiding to file W.S. Reason mentioned in the application is not genuine so application be rejected with costs.

4. Perused record of case. It appears from record that subject matter is immovable property and suit is filed for partition and separate possession. It appears from record that defendants failed to file written statement within limitation. Application is supported by affidavit of Maheboob Imamsab @ Imamkhan Pathan (Defendant no.1). Today, court passed order below exh.102 and condoned the delay to file written statement. There is sufficient reason to setting aside no written statement order. Subject matter of the suit is immovable property and valuable rights of the parties are involved in it. No counter affidavit of plaintiffs is filed on record. For the purpose of natural justice, it is necessary to set aside no written statement order. So, I pass following order.

ORDER

Application (Exh.103) is allowed and set aside no W.S. order passed on 17.11.2018 on payment of costs of Rs.1500/- given to the plaintiff.

Date : 09.12.2022.

(P.P. Kale)
Civil Judge Junior Division,
Chakur.