


MHLA160009992015 	<u>Reg. Civil Suit No.72/2016</u> <u>Balaji & Ors. Vs. Ram</u>
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ORDER BELOW EXH.63

This is application to set aside No W.S. order and permission to file written statement.

2. Heard learned Advocate Shri. M.B. Patil for defendant No.1 to 3 and learned Advocate Shri. B.V. Patil for plaintiff at length.

3. I have carefully gone through the record. This is suit for declaration of ownership. The defendant had filed written statement (Exh.13). But thereafter he is dead. His legal heirs i.e. defendant No.1 to 3 appeared in the suit. But they failed to file written statement. Therefore, the suit proceeded further without written statement vide order dated 17/02/2026. This application does not disclose the reason of delay. The defendants tried to prolong the suit.

4. Considering nature of suit, its subject i.e. landed property and to decide the right and liabilities, the defendant No.1 to 3 have to grant an opportunity to contest the suit and put forth their defence. For that purpose, need to go through the settled principle of law. An opportunity is the back bone of justice and if it is refused, there is every possibility of miscarriage of justice. It is an important to mention here that, the law and rules of procedure are always handmaidens of justice and not suppose to defeat ends of justice. So, imposing heavy cost will meet the ends of justice. Considering the nature of suit and need of opportunity to contests the same, this application is deserved to be allowed. Therefore, I reached to the

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conclusion that, defendant No.1 to 3 have to grant an opportunity for filing written statement, subject to costs. Hence, I pass the following order.

-:: ORDER ::-

1. The application is allowed and set aside No W.S. order dated 17/02/2026 and defendant No.1 to 3 are permitted to file written statement subject to cost Rs.1000/-.
2. The defendant No.1 to 3 shall pay cost to the plaintiff till next date, failing which, order will be automatically cancelled.
3. Both parties shall expedite the suit and should not claim undue adjournment.
4. Order dictated on computer and pronounced in open court.

Date- 23/04/2026
Deoni.

(S.A. Surjuse)
Civil Judge Junior Division,
Deoni.