

ORDER BELOW EXH-18 IN R.C.S. NO.280-2019
CNR-MHLA120011922019

1. This application is filed by defendant no.9 for setting aside no written statement order passed against her and to accept her written statement.
 2. In brief, according to defendant No. 9 that, on the date fixed for filing written statement, due to her illness she could not file her written statement within time and accordingly, no written statement order has been passed against her on 31.12.2019. It is further stated that, defendant is not intentionally avoiding for filling her written statement. Valuable rights of the defendant No.9 is involved in the suit land. No prejudice will be caused to the plaintiff if her written statement is accepted on these ground she prayed to set aside no written statement and to accept her written statement.
 3. This application is objected by the plaintiff stating that, no sufficient cause shown by defendant No.9. Further, it is contended that, no medical certificate has been filed to show illness of defendant No.9. On these grounds she prayed the application with costs.
 4. Perused the application, supporting affidavit of defendant No.9, say and record. Heard learned advocates for plaintiff and defendant No.9.
 5. This is the suit for partition and separate possession of immovable property. The record shows that, present defendants duly served with summons on 16.08.2019, thereafter no written statement order has been passed against them on 31.12.2019. It seems that, almost one month after passing no written statement order the present application is filed by the defendant No.9 but after considering the nature of the suit and in the interest of justice it is necessary to give one
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chance to the defendant No.9 to defend the suit on merit. Further, no prejudice will be caused to the plaintiff if chance is given to the defendant No.9 to defend the suit. The present application is supported by affidavit of defendant No.9. There is no reason to disbelieve the contention of the defendant No.9. To avoid multiplicity of the proceeding and further complication it is necessary to permit the defendant No. 9 to file her written statement. In order to have natural justice in the case, I have no hesitation to allow the application. Definitely delay has been caused to file written statement, but it can be condoned by imposing costs on defendant No.9. In the result I pass the following order.

ORDER

1.	Application at Exh.18 is allowed subject to costs of Rs.100/- (Rupees One Hundred).
2.	Costs to be paid to the plaintiff on or before next date. (Pronounced in open court)

Date-30.01.2020.

3rd Jt. Civil Judge J.D., Nilanga.