


MHNG080002682025 	RCS No. 23/2025 Dipak Vs. Shivdas & Ors.
--	---

Order Below Exh. 36

Defendant No.2 filed this application for setting aside no written statement order and permission to filed written statement.

2. Brief facts of the applicant are as under:-

That, after service of suit summons the defendant appeared and sought time to file written statement. Thereafter the defendant No. 2 fell ill and could not contact to his counsel and therefore the counsel was unable file Written Statement for want of his further instruction. This court passed order dated 15/12/2025.

3. It is necessary to set aside no written statement order and give permission to file written statement on record. Hence, this application.

4. The plaintiff opposed this application by filing say overleaf.

5. Following point arose for my determination to which my findings with reasons thereon are as under:-

Sr. No.	Points for determination	Findings
1.	Whether permission can be granted to file written statement as prayed?	No.
2.	What order?	Application is rejected

Reason as to point No.1:-

6. Read application, say heard learned Advocate Shri.Mandpe for

defendant No.1 at length.

7. Order 8 Rule 1 of the Code of Civil Procedure (CPC) reads as mandates that a defendant must file their written statement of defense within 30 days of receiving the summons. This period can be extended by the Court to a maximum of 90 days, provided there are valid reasons recorded in writing. If the written statement is not filed within the specified or extended time (up to 90 days), the court can refuse to accept it, or in some scenarios, proceed under Order 8 Rule 10. The rule was introduced to expedite the trial process, reducing the previously lax approach to time frames for filing defenses.

8. Perusal of record. It shows that present suit is filed on 17.01.2025 praying for declaration of relinquishment deed as null and void and for perpetual injunction. Summons was duly served to defendant through paper publication. This court had passed ex-parte order dated 15.12.2025 while defendant No.2 appeared on 10.06.2025 but failed to file written statement within time stipulated under Order VIII Rule 1 of Code of Civil Procedure. Hence this court constrained to pass no written statement against defendant No.2 dated 26.09.2025.

9. Record further shows the plaintiff filed his evidence affidavit on 08.01.2026 along with copies for defendants for cross examination. Interesting here to be noted that defendant No.12 cross examine to the plaintiff at length subsequently. The plaintiff filed application Exh.24 praying for additional evidence. This court granted opportunity to filed additional evidence to which defendant No.12 again cross examine said witness and plaintiff filed evidence closed pursis Exh.33. Matter was kept for final argument and at this juncture there is no sufficient ground to allow defendant No.2 to file written statement. Hence, my findings to

point No.1 in the negative and in answer to point No.2 I pass following order.

ORDER

1. Application is rejected.
2. Costs in cause.

Place : Kamptee.
Dt:- 18.04.2026

(Q.R. Syed)
2nd Jt. Civil Judge Junior Division
Kamptee.

