



ORDER (BELOW EXH.33)
(Passed on 21.04.2025)

Defendant No.1 has filed this application for setting aside no written statement order passed against him on 20.02.2024 and for grant of permission to file written statement on record.

2. It is contended that, due to unavoidable circumstances he was unable to give instructions for preparing his written statement to his Advocate. There was no deliberate intention in not filing his written statement. Therefore, this court passed no written statement order against him. Hence, the application.

3. The plaintiff has filed her say on the application at Exh.34 and strongly opposed the application. Hence, prayed to reject the application with costs.

4. Heard the learned Advocate for the plaintiff. The learned Advocate for the defendant remained absent when called out for hearing. Hence, the application proceeded without hearing of the defendant vide order below present application.

5. Perused the record. The plaintiff has filed this suit for

cancellation of registered relinquishment deed, partition, separate possession and permanent injunction. Perusal of record shows that on 20.02.2024 this court passed no written statement order against defendant No.1. The defendant has filed present application on 22.01.2025 i.e. after eleven months from passing no written statement order against him. It means there is huge delay in filing present application. Record shows that the defendant has not filed any application for condonation of delay. Perusal of record shows that the defendant has filed written statement on record along with present application. It means the defendant is ready to contest the suit and therefore, in my view, it will be just and proper to condone the delay caused in filing present application, though not prayed by the defendant. If the application is allowed, it will also help to decide the suit on merit. No prejudice would be caused to the plaintiff if the application is allowed. The defendant did not file any documentary evidence to show the reasons for filing present application at belated stage. But in the interest of justice the application deserves to be allowed subject to costs of Rs.1,000/-. Hence, I pass following order.

ORDER

1. Application (Exh.33) is allowed subject to costs of Rs.1,000/- (Rupees One Thousand Only).
2. The delay is hereby condoned.
3. No written statement order passed against defendant No.1 is hereby set aside.

4. After paying costs to the plaintiff, written statement of defendant No.1 will be read and recorded.

DATE : 21.04.2025

(R.R. Sherekar)
2nd Jt. Civil Judge Jr. Dn.
Kamptee, Dist. Nagpur.