

MHNG180001742020

**ORDER BELOW EXH. 16**(Passed on this 19th day of August, 2025)

1. The defendant has filed this application for accepting the written statement on record. Defendant submitted that, after the receipt of suit summons of the instant suit, the defendant appeared before the court through this earlier counsel Adv. S.R. Kautkar. Defendant is regularly attending the dates and also visiting the office of his counsel regularly. Since January 2022, his counsel is not giving proper information to him about the progress of the case to the defendant. Hence defendant decided to engage new counsel. He further submitted that in the second week of July 2022, he requested the present counsel to appear in the matter for contesting the suit. But, present counsel requested defendant to bring case papers from his earlier counsel. The defendant requested the earlier counsel to hand over the case papers and accordingly his earlier counsel handover the case papers to the defendant. The present counsel verified the case papers but some of the case papers are missing.

2. Defendant further submitted that on 19.07.2022 the present counsel instructed his junior to file Vakaltnama and to verify the entire record. As per the direction of present counsel, his junior counsel had filed the Vakalatnama and verified the record and informed the present counsel that the matter is fixed for amended plaint. He also informed that the earlier counsel has filed reply and written statement on record and hence the present counsel is under impression that the matter is for the compliance from the side of the plaintiff. On last date

of hearing i.e. on 30.11.2022 the present counsel verified the record and found that earlier counsel had filed a reply to T.I. application only and there is no W.S. on record.

3. The Junior counsel is under impression that reply to T.I. application is itself a W.S. and hence he informed the counsel that the reply and W.S. is filed on record. Thereafter, present counsel has taken instruction from the defendant and prepared the written statement and filling the same along with this application without there being any delay. The delay caused in filing written statement is not deliberate or intentional but it was due to bonafide reason as mentioned above. The matter is at very initial stage and hence no prejudice would be caused to the plaintiff if the defendant is permitted to file his written statement on record. Hence, he prayed that the written statement of defendant may kindly be taken on record, in the interest of justice.

4. Say of plaintiff was called upon. Plaintiff filed his say on back-leaf of application and opposed the application as defendant has narrated false stay in the suit/application. As per court record the defendant has received suit summons on 27.01.2020 as per bailiff report vide Exh. 6. Therefore, defendant has failed to file written statement with 90 days as required by law. Plaintiff further contended that the defendant has not moved on application for grant of time to file written statements on earlier dates. As per Exh. 11 the defendant has not given reply to temporary injunction application on 13.03.2020. The defendant is well aware that written statement ought to have been filed in this matter but, failed to file same. The defendant has filed this application after 2 years and 10 months which show arbitrary negligence of the defendant. The in-ordinate delay caused in filing

written statement cannot be condone automatically. The defendant has engaged new counsel on 19.07.2022 as per Exh. 15, although not filed written statement on same day. The application filed by defendant is malafide on not maintainable. Therefore, plaintiff prayed to reject the application with heavy cost.

5. Perused the record. It is seen that the defendant has engaged new counsel in the present matter on 14th June, 2022. Thereafter, he has filed the present application on 20.12.2022. Along with the application he has filed copy of written statement on the record. On going through the application, say filed by the plaintiff and record of the case, it is seen that there is delay in filing written statement on record. But, the reason stated by the defendant for filing written statement is seems to be bonafide. To deal with controversy involved in the present matter and to decide the matter on merits fair opportunity is required to be given to defendant to defend the suit. But, considering the delay caused in filing the written statement, plaintiff has to suffer some hardship which can be compensated by imposing cost upon defendant. Hence, considering the same and in view of the aforesaid discussions and in the interest of justice, I pass following order ;

ORDER

- 1) The application Exh. 16 is hereby allowed subject to cost of Rs. 500/- to plaintiff.
- 2) On compliance of the cost written statement be read and recorded.

Date :- 19.08.2025

Sd/-
(S. B. Mandwe)
Jt. Civil Judge, Jr. Division,
Kalmeshwar

//4//

R.C.S.No. 03/2020
Morba Vs. Sanjay

CERTIFICATE

I affirm that the contents of the this PDF file order are same word to word, as per the original Order.

Name of the Stenographer :- **R.M. Parmal (Lr. Gd)**