



ORDER BELOW EXHIBIT 24 IN R.C.S 119/2023

**Shri. Ramrao Kashinath Uphade Vs. Smt. Chaya Dattatray
Shelke and ors.**

The present application filed by defendant no. 1 to 3 for setting a side no written statement and say order passed against them.

2. By this application they submitted that, these defendant appeared in the suit. However, non-obtaining the relevant information and documents they have failed to filed their written statement on record. Hence this court passed no written statement order against these defendants on 20/12/2023. These defendants unable to obtained revenue record of the suit property within limitation hence, they failed to filed their written statement on record. This delay is not deliberate, if the written statement of these defendants not taken on record then gross injustice would cause to these defendants. If the written statement brought on record then it will helpful to decide the case on merits. Hence, prayed for setting a side no written statement order.

3. Plaintiff filed his say on the back leaf of the said application. Stating therein that, these defendants filed failed to file their written statement within statutory period hence this court passed no written statement order. These defendants have not mentioned any just and reasonable ground for not filing written statement within statutory period. Hence, prayed for rejection of the present

application. If the court opinions that, the application be allowed. Then cost of Rs. 5000/- be imposed upon these defendants.

4. Perused application and say. Heard Ld. Advocates for the respective parties. Perused case record. The plaintiff has filed Suit bearing R.C.S No. 119/2023 for perpetual injunction. Defendants no. 1 to 3 appeared in the suit on 05/08/2023, though they failed to filed their say and written statement. Thereafter, plaintiff prayed ad-interim ex-parte injunction against these defendants. After hearing argument and on perusing the document on record, this court passed ad-interim ex-parte order against these defendants. After passing this order these defendants appeared and filed their written statement along with present application. It shows that, after passing ad-interim injunction against these defendants filed their written statement. So, this conduct of the defendants prolonging tactic.

5. Admittedly, the delay is caused to the filing of say and written statement on the record. However, in order to adjudicate the difference between the parties on merit and to avoid further complications, it is necessary to give an opportunity to this defendant. However, delay caused to file written statement and thereby lingering the case on the same stage cannot be overlooked. Hence, it would be appropriate to impose the cost on this defendants. In this backdrop I am inclined to pass following order by taking a liberal approach.

ORDER

1. The present application is allowed subject to cost of Rs. 500/- payable to the plaintiff by the defendant no. 1 to 3 on or before next date.

2. Written Statement and say will be taken on record after compliance of clause 1 of this order.
3. Parties to take note of this order.

Date. 16/02/2024

Sd/-
(Ashwini A.Pandit)
2nd Jt. Civil Judge Junior Division
Dindori (MH03260)