

ORDER BELOW EX. 33.**(Passed On 06th January 2021)**

1. This is an application for permission to file written statement preferred by defendant No. 2 to 12.

2. Perused the application and read the reply. I have heard Mr. B.M Thakare learned counsel for plaintiffs and Mr. S. S. Thorat learned counsel for defendant No. 2 to 12.

3. Mr. Thoat learned counsel for defendant No. 2 to 12. submitted that plaintiffs have filed present suit for declaration and permanent injunction against defendants. Mr. Thorat submitted that defendant No. 2 to 12 were served with summons and defendant No. 2 to 12 had failed to file written statement on record during the stipulated period. Mr. Thorat submitted that this Court had allowed previous application for seeking time to file written statement of defendant No. 2 to 12. Mr. Thorat submitted that defendant No. 2 to 12 could not get required documents for filing written statement hence, they failed to file their written statement on record. Mr. Thorat submitted that even plaintiff No. 1 also expired hence they could not file written statement within stipulated time. Mr. Thorat submitted in absence of written statement of defendant No. 2 to 12 they would suffer irreparable loss. Mr. Thorat submitted in consonance to his application and prayed to permit plaintiff to file written statement of defendant No. 2 to 12 on record and accordingly prayed to allow the instant application.

4. Mr. Thakare learned counsel for plaintiffs vehemently opposed the instant application and submitted that the instant application at this stage is not maintainable. Mr. Thakare submitted that defendant No. 2 to 12 are negligent and careless in the instant matter though they were served with summons. Mr. Thakare submitted that defendant No. 2 to 12 had appeared on 22-10-2019 and had filed vakalatnama of their Advocates and also had preferred application for seeking time to file their written statement on record. Mr. Thakare submitted that present application is filed on 02-03-2020 this itself reveals the vigilance and diligence of plaintiff in contesting the present matter. Mr. Thakare submitted that present application is filed on 02-03-2020 that too after lapse of limitation period with ulterior motive just to harass plaintiffs and to prolong the present matter. Mr. Thakare submitted in consonance to his reply and prayed to outrightly reject it with heavy cost.

5. On perusal of record it reveals that defendants were served with summons and they had appeared in Court on 22-10-2019. The instant application is filed on record at on 02-03-2020 along with written statement of defendant No. 2 to 12. It is pertinent to mention that already permission to file written statement of defendant No. 2 to 5 and 10 is allowed hence permission to file written statement of defendant No. 6 to 9, 11 and 12 needs to be given to defendant No. 6 to 9, 11 and 12 to contest the suit. It is pertinent to mention that no prejudice as such would be caused to plaintiffs if they are compensated by way of cost. On the basis of arguments of rival sides, I am of the opinion that instant

application needs to be allowed in the interest of justice. I am inclined to pass following order.

ORDER

1. The application at Ex. 33 is allowed subject to payment of cost of Rs. 250/- (Two Hundred Fifty Only) to other side & cost of Rs. 250/-(Two Hundred Fifty Only) in TLSA by defendant No. 6 to 9, 11 and 12. On failure to pay cost to plaintiffs/deposit costs in Court instant matter would proceed further in accordance with law.

2. Defendant No. 6 to 9, 11 and 12 are allowed to file their written statement on record, after payment of costs.

Place:- Chandwad

Date:- 06/01/2021.

(N. A Ingley)

Civil Judge Junior Division

Chandwad

CERTIFICATE

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

Name of Stenographer	:- Kum. D. D. Dhoke.
Court Name	:- Civil Judge Junior Division Chandwad.
Date of Decision	:- 06-01-2021.
Signed by presiding officer	:- 06-01-2021.
Uploaded on	:- 07-01-2021.