

MHNS170010442024

**Savitabai Manoj Marathe****Vs****Vijay Bhimrao Malve**

ORDER BELOW EXH. 17 IN
R.C.S. NO. 163/2024

1. This is an application filed by defendants whereby they prayed for setting aside No W.S. order passed against them. Defendants submitted that they appeared in the suit on dt.18/12/2024 and prayed for adjournment. But, thereafter because of defendant no.1 resides in another town due to his job and defendant no.2 resides at Pune due to his job and defendant nos. 3 and 4 are old aged persons and suffering from various ailments, could not meet their advocate and could give the necessary information for preparing written statement. Due to which defendants could not file written statement and no W.S. order came to be passed against them. Hence, this application.

2. Plaintiff by filing say behind back of the application itself resisted the application on the ground that defendants deliberately did not file written statement within limitation. Reason mentioned in the application is false. Hence, prayed for rejection of the application.

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3. Heard learned advocate for both the parties.

4. Perused the record.

5. This is a suit for declaration, partition and perpetual injunction. Application is supported with affidavit. Considering the nature of the suit and rights of the parties involved therein, it is just and proper to give an opportunity to defendants to file written statement. No prejudice would be caused to the plaintiff if application is allowed. It will help to decide the suit on merit. Considering the nature of the suit, No W.S. Order passed against defendants needs to be set aside. But record shows that after more than 7 months of their appearance defendants filed this application belatedly and that is also without any supporting document. Considering length of delay and taking into consideration the fact that the plaintiff comes from Jalgaon District, it is to be seen that no injustice would be caused on the other side and, therefore, it is appropriate to allow the application subject to cost of Rs. 800/- (Rs. Eight Hundred Only). Hence, order.

ORDER

1. Application is allowed and No W.S. Order passed against defendants is set aside subject to cost of Rs. 800/- (Rs. Eight Hundred

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Only).

2. Cost be paid to the plaintiff on or before next date.

Nandgaon
Date :- 11/06/2026

(J. M. Agnihotri)
Civil Judge, Junior Division,
Nandgaon (Nashik)
(MH02817)

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