



ORDER BELOW EXHIBIT NO. 75 IN RCS NO. 03/2019

Defendant no. 20 has filed present applications with a prayer to set-aside no- w.s order .

2] Perused application, say.

3] Heard, learned advocate for defendant no.20 and plaintiffs.

4] The plaintiffs filed their say and strongly objected application. They submitted that the suit is pending for final argument. The defendant no.20 was served with suit summons but she failed to file her written statement. Delay is not properly explained. They prayed to reject the application.

5] After going through all above, it is clear that defendant no.20 has put-forth the reason that, she is illiterate old lady, comes from long distance rural area. Her previous advocate has not adviced her to file her written statement. She appointed new advocate on 16/06/2023 after that she collected necessary documents. She under gone surgery. Therefore delay caused to file her written statement. It is true that she has not adduced evidence in

support of application.

6] On perusal of the record, it is clear that prior to filing of present application, the suit was pending for final argument. Defendant no.20 appeared in the suit on 02/02/2019 for the first time. She filed her last adjournment application on 05/03/2019. After that she again appeared with her new advocate on 16/06/2023. She filed this application on 09/02/2026. There is a delay to file written statement of 7 years since her first appearance.

7] From present application, it is clear that defendant want to contest present suit by putting her written statement on record. It is admitted fact that the documents in regard of reasons put-forth by defendants is not filed on record. It was possible for her to file the same on record, but for the reasons best known to herself, the said exercise is not carried on.

8] The present suit is for partition, declaration and injunction. The valuable rights of the parties are involved in the present suit. Considering the stage of the suit, the plaintiffs will not suffer any loss if the present application is allowed. In regard of legal mandate of filing written statement within 90 days, it is well settled in catena of cases that the said provision is not mandatory, but directory in nature. Considering all the facts and circumstances and interest of the justice, the defence of defendants is required to be taken on record. By doing so, the help will be

advanced while deciding the real controversies between the parties. As a result, following order is passed :-

ORDER

- 1] Present application is allowed subject to costs of Rs.5000/- .
- 2] Plaintiffs are entitled to receive the costs.

Place : Yeola
Date : 27/03/2026

(S. M. Bohara)
Civil Judge (J.D.)
Yeola