

Order below Exh. 34 in R.C.S. No. 249/2015.

1] Defendant No. 2 has moved this application supported by an affidavit for setting aside no W.S. order by condoning delay and permit him to file written statement on record. He further submitted that, after his appearance he has to file written statement within stipulated period, but he was out of station and was not aware about the dates in the court, therefore, he could not file written statement within time and hence no W.S. order came to be passed. He further submitted that, in the interest of justice he be allowed to file written statement on record. Hence, prayed for allowing application.

2] Other side has given say and submitted that application is not true and legal. Hence, prayed for rejection of application.

3] Considering the submissions, nature of suit, it appears that this is a suit for partition, declaration and perpetual injunction in respect of suit properties and rights of present defendant No. 2 are involved in the suit properties. Therefore, in order to decide the real question in controversy between the parties on merits, written statement of defendant No. 2 appears to be necessary on record. It is true that delay has been caused in filing written statement, however, said delay can be condoned by saddling costs on defendant No. 2. Hence, I pass following order :

ORDER

1] Application Exh. 34 is allowed subject to cost of Rs.500/- (Rupees five hundred only), out of which Rs. 250/- be paid to the plaintiffs and Rs.250/- be deposited with Taluka Legal Aid Service Committee, Sinnar forthwith.

2] On payment of cost, delay is condoned, no W.S. order is set-aside and defendant No. 2 is permitted to file written statement on record.

Place : Sinnar. }
Date : 20.02.2017.}

Sd/xxx
(S. N. Ratkanthwar-Jawadwar)
Civil Judge (Junior Division), Sinnar.