

ORDER BELOW EXHIBIT – 26 In R.C.S. No. 138/2019

(Order passed on the 12th day of March 2020)

The defendant No. 3 to 6 filed present application and prayed for allow them to file their written statement. It is contended that, they have appeared through their advocate but they could not file their written statement within statutory limit. If defendant No. 3 to 6 are not permitted to file their written statement, then defendant No. 3 to 6 would suffer irreparable loss which could not be measure in the terms of money.

2. The plaintiff filed his say and opposed this application on the ground that present application is not tenable in the eyes of law. Ld. Advocate for plaintiff further prayed that, application is liable to be rejected.

3. No doubt written statement or say has to be filed within statutory limit providing in the Code of Civil Procedure. But in the present matter defendant No. 3 to 6 specifically stated that, they could not attend the court and failed to file their written statement within statutory limit. Considering their genuine ground in the interest of justice this application deserves to be allowed.

4. Admittedly there is a delay for filing this application. However, considering the nature of application the opportunity be given to the defendant No. 3 to 6 for contesting the present suit. Though they have not filed any documentary evidence which shows that they could not attend the court and failed to file their written statement within statutory limit. Considering the grounds mentioned in the present application. It is just, proper and reasonable to

decide the suit on merit. The famous maxim i.e. “*Audi alteram partam*” means *Hear the other side. Both sides should be heard before decision is arrived at.* Considering the ambit of the maxim supra. Present application deserves to be allowed. Therefore, in the interest of justice and fair opportunity to condone the delay for filling their written statement. Accordingly, I pass the following order;

ORDER

1. Application is allowed subject to cost of Rs. 500/-.
2. No W.S./Say order passed at Exh. 01 on dated 03.01.2020 against Defendant No. 3 to 6 is hereby set-aside.
3. Defendant No. 3 to 6 are permitted to file their written statement.

Place : Satana
Date : 12.03.2020

(Vikram A. Avhad)
Civil Judge, J.D., Satana
Dist. Nashik

CERTIFICATE

This is to certify that the contents of PDF order are same to same as per the original Judgment.

Court Name : Civil Judge,J.D.,Satana.

Date of Decision : 12/03/2020

Date of Signature : 12/03/2020

Uploading within 3 days after pasting digital signature by Hon'ble PO.