

Order below Exh.44 in R.C.S. No.209/2023

This is an application filed by defendant No.2 for setting aside no written statement order. She submits that, the suit is filed for declaration and perpetual injunction. The summons is not personally served upon defendant No.2. On 03.03.2020 no written statement order has been passed against her. Defendant No.2 was not having knowledge about the suit. Later on, due to covid pandemic she could not remain present in the court to file written statement. After receipt of notice from the court at Sinnar, she has filed written statement. There is no delay on the part of defendant No.2 as she was not having information about the suit. Therefore, written statement filed by her may accepted by condoning the delay.

2. The plaintiff resisted the application by filing say and contended that, the summons was served upon defendant No.2 before March, 2020 but she intentionally remained absent. written statement filed by her is not within limitation. Therefore, he prayed for rejection of the application.

3. Heard both sides. Perused record of the case. The suit pertains to the declaration about share of the plaintiffs in the suit property and other declaration. The property involved in the suit is agricultural land. Initially the suit was filed in the court of C.J.S.D., Nashik. After establishment of court of C.J.S.D. at Sinnar it is transferred to this court in April 2023. The record shows that, before transfer of the suit already no written statement order has been

passed against defendant No.1 on Exh.1 on 03.03.2020. Defendant No.2 appeared in the court at C.J.S.D., Sinnar by filing Vakalatnama on 19.10.2023. Even after appearance in this court, she failed to file application for 2 dates. Considering the nature of dispute and reasons cited in the application, it would be proper to allow defendant No.2 to place her pleadings on record. However, considering the delay in filing written statement, the plaintiffs should be compensated by way of costs. Hence the following order,

ORDER

1. The application is allowed subject to costs of Rs.1000/- (Rupees One Thousand only) to the plaintiffs.
2. On payment of costs, written statement filed by defendant No.1 be taken on record on or before next date.

Date : 04.02.2025.

(R. S. Kanade)
Civil Judge S.D., Sinnar.