

Order passed below Exh. 23 in Regular Civil Suit No. 411 of 2023

1. The present application is filed by the Defendant Nos. 2 to 4 and 6 & 9 for setting aside 'No Written Statement' passed against them.

2. It is alleged by Ld. Advocate of Defendant Nos.2 to 4 and 6 & 9 that, they could not file written statement within limitation because they could not obtained some important documents within time. Therefore, he has prayed for setting aside the 'No Written Statement' order passed against Defendant Nos.2 to 4 and 6 & 9.

3. The plaintiff has filed his say on the backleaf of the present application. He has stated that, reason mentioned in the application is not specific. Hence, he has prayed to reject the application.

4. Perused the application and say filed. Heard Ld. Advocate for Defendant Nos.2 to 4 and 6 & 9 and Ld. Advocate for the plaintiff.

5. The Hon'ble High Court in Nagarparishad Hinganghat Vs. Suchitra Kumar, 2010(3) Mh. L.J.948 held that it is well settled position of law that as far as possible Court should decide the civil litigation on merit. Merely because the application is filed at belated stage, the Court should not refuse the written statement. Further, it has been held in Ramesh Vs. Diliprao, 2009(1) Mh.L.J. 429 that priority should be given to adjudicate the rights and liabilities of the parties on merit, technicalities should not prevail. The Court should not take away the opportunity of party when positive step is taken to submit written statement.

6. Keeping the above principle in mind, it is necessary to mention here that the present suit is filed by the plaintiff for Declaration, Partition and Separate Possession. This court is fact finding court. Therefore, in order to decide the suit on merit, the written statement of the Defendant Nos.2 to 4 and 6 & 9 should be on record. It will help the court to decide the suit on merit of the case. If the written statement is not accepted then the Defendant Nos.2 to 4 and 6 & 9 will be denied opportunity to put up their defence and they will suffer irreparable loss. Loss any sustained by plaintiff can be compensated by imposing cost on Defendant Nos.2 to 4 and 6 & 9. Hence, I pass the following order.

ORDER

1. Application below **Exh.23** is allowed.
2. Defendants Nos. 2 to 4 and 6 & 9 are jointly directed to pay cost of Rs.500/- to plaintiff.

Date - 29/08/2024
Place – Tuljapur

(**K. S. Kulkarni**)
2nd Jt. Civil Judge, Junior Division
Tuljapur.

CERTIFICATE

I affirm that, the contents of this P.D.F. file Judgment/order are same, word to word, as per the original Judgment/order.

Name of Stenographer	- V.M. Gaikwad, Stenographer Gr. III (On Deputation)
Court	- 2 nd Jt.CJJD & JMFC Tuljapur
Date	- 29.08.2024
Order signed by the Presiding Officer on	- 29.08.2024
Order uploaded on	- 29.08.2024