

MHOS070018972023



ORDER BELOW EXH. 27 IN RCS No. 67/2024.

1] The present application is filed by Non-applicant No. 1 for setting aside the no written statement order passed against him.

2] Non-applicant No. 1 contended that, the present application is filed under Order 33 Rule 1 & 2 of the Code of Civil procedure. Notice of the application was duly served on him. But due to he was lived out of station for service, he unable to appear and file his written statement within a prescribed period. The said delay is not intentional. Therefore considering all these reasons it is necessary to set-side no written statement order, prayed to allow the application.

3] On the contrary, applicants have filed their say on application itself and contended that, notice of the application duly served on the non-applicant No. 1. But he failed to file his written statement within stipulated period. Reasons mentioned in the application are vague. Therefore they prolong the matter intentionally. Therefore, prayed to reject the same or allow on heavy cost.

4] Heard, Ld. Counsel S. S. Pawar for the Non-applicant No. 1 and Ld. Counsel R.M. Ingale for the applicants.

5] Perused the application and record. As consider record and documents, the application was instituted dated 20/07/2023. It appears that, various opportunities availed by Non-applicant No. 1 for filing his written statement. Non-applicant No. 1 failed to file his written

statement. But record never reflects about his due diligence for filing his written statement. Therefore considering merit of the application and to avoid to multiplicity of the proceeding, one opportunity must be given to the Non-applicant No.1. It will not cause any prejudice to either party. Instead of that both applicant and Non-applicant will have right to proceed with their evidence. Therefore it is probable to pass following order:-

ORDER

- 1] Application is allowed.
- 2] No written statement order against Non-applicant No. 1 is hereby set aside.
- 3] No order as to costs.

Date:- 10/06/2025
Omerga.

(Geeta P. Bankar)
Jt. Civil Judge Junior Division,
Omerga.