

## **ORDER BELOW EXHIBIT 22**

This is an application by the defendant No. 1 and 2 seeking setting aside of order proceeding the present suit without their written statement.

**02.** Plaintiffs have strongly objected the application vide their say on back leaf of the application. It is submitted on behalf of plaintiffs that, intentionally defendant No.1 and 2 delayed in filing their written statement, they moved the application for setting aside the order on 12.02.2023 which is almost after the expiry of one year. They moved the application to prolong the suit and therefore, application is required to be rejected. It is further submitted to impose heavy cost in case of allowing the application.

**03.** Perused the record and proceeding. The defendant No.1 and 2 were appeared on 17.08.2022 vide Exh.09. As they failed in filing their written statement within the prescribed time limit, the suit was proceeded without their written statement by order dated 25.11.2022. Thereafter, they moved the application on 12.02.2024.

**04.** It is submitted on behalf of the defendant No.1 and 2 that, due to death of mother of defendant No.1, they could not file their written statement within time limit. Resultant order dated 25.11.2022 was passed proceeding the suit without their written statement. Hence, the reason provided by the defendant No.1 and 2 that due to death of mother of defendant No.1 they could not filed written statement is condonable.

**05.** Moreover, it would be necessary to note that pleadings of both the parties in a suit play a major role in determining the real question of controversy between the parties. The written statement of the defendant

No.1 and 2 would serve the purpose of their defence and if it is not considered, it would deny them to contest the suit on merits. Therefore, in order to adjudicate the suit on merits, the delay could be condoned and the defendant No.1 and 2 deserve a second chance.

**06.** However, due to the lapse of time, plaintiffs have suffered inconvenience. The state machinery also had to expend more on litigation. Now due to the inactivity of the defendant No.1 and 2 the stages have to be revised. Hence, this inconvenience shall be compensated by imposing costs on them. Hence, I proceed to pass following order:

**ORDER**

1. The application at **Exh.22** is allowed subject to cost of Rs.1,000/- (One Thousand Rupees Only) to be paid by defendant No.1 and 2 collectively to plaintiffs collectively.
2. The cost shall be paid by defendant No.1 and 2 on or before next date, in case of failure, the application will stand rejected.
3. The written statement of defendant No.1 and 2 shall only be taken on record only after compliance of clause (1) of this order.

Date: 10.06.2024

**(Husna R. Khan)**  
2<sup>nd</sup> Jt. Civil Judge Junior Division,  
Bhoom

**Certificate**

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

|                                             |     |                                                 |
|---------------------------------------------|-----|-------------------------------------------------|
| Name of Stenographer                        | ... | N. V. Koli<br>Stenographer Grade-3              |
| Name of Court                               | ... | 2 <sup>nd</sup> Jt. Civil Court Jr. Dn., Bhoom. |
| Order Date                                  | ... | 10.06.2024                                      |
| Order signed by the Presiding<br>Officer on | ... | 10.06.2024                                      |
| Order uploaded on                           | ... | 12.06.2024                                      |