



**ORDER BELOW EXH.70**

1. I have perused the application and the say filed by plaintiff. I have heard arguments of both the sides. Record perused.

2. The defendant no.2 to 4 have filed this application for setting aside no written statement order and to permit them to file written statement on record. It is alleged in this application, defendant no.3 and 4 reside permanently at Pune and defendant no.2 earns livelihood by going outside etc. It is also alleged by them that, they were making enquiry regarding date of hearing, however, they were told to remain present at proper time of hearing. It is also submitted by them that, these defendants have no knowledge of law or court proceeding. Meanwhile, Covid-19 started and in the second week of March these defendants came to know about passing of such orders. It is also submitted by these defendants that, for deciding the suit on merit, it is necessary to allow the application etc.

3. The plaintiffs in their say objected this application by contending that, defendant no.2 appeared in the suit on 31/08/2012 and defendant no.3 and 4 appeared in the suit on 10/12/2014. It is also submitted by plaintiffs that, no written statement order is passed against defendant no.3 and 4 on



16/02/2016 and against defendant no.2 on 26/06/2014. The plaintiffs further submit that, no proper reasons are given. Evidence affidavit below Exh.53 is given by plaintiffs and arguments have been advanced by plaintiffs. In the last, plaintiffs prayed to reject the application.

4. According to defendants, no written statement order is passed against defendant no.3 and 4 on 16/02/2016 and against defendant no.2 on 26/06/2014. The present application is filed on 21/03/2022. Thus, there is a delay of many years in filing the written statement. It is not disputed that, evidence has been commenced in the suit vide Exh.53. Exh.53 also shows that, on 09/03/2022 no cross-examination order was passed by the court and thereafter on 21/03/2022 the plaintiffs closed their oral evidence. Thus, when evidence has been started it is necessary for these defendants to show their due diligence. After going through the reasons in mentioned in present application, I find that the reasons are not sound and reasonable. Ignorance of law cannot be allowed. Law helps to those who are vigilant and not to those who slept over their rights for many years.

5. After perusing present application, I find that no justifiable ground is given by defendants. It appears that these defendants have taken for granted that written statement can be



filed at any stage without giving strong and exceptional reasons. The case is of the year 2012. After perusal of record, these defendants are found to be negligent in filing their written statements. The learned counsel for plaintiff relied upon the citation of **Atcom Vs. Y. A. Chunawala, reported in 2019(2) Mh.L.J.26.** I have gone through this case law. In para no.17 it is observed that, “no doubt, the provisions of Order VIII Rule I of the Code of Civil Procedure, 1908 are procedural in nature and, therefore, hand maid of justice. However, that would not mean that the defendant has right to take as much time as he wants in filing the written statement, without giving convincing and cogent reasons for delay.....”. In the present case also, no convincing and cogent reasons are given by these defendants. Therefore, the ratio laid down in the aforesaid citation is applicable to the present suit. Hence, after perusing all the material placed on record, I find that the application is bearing no merits and it is liable to be rejected.

**ORDER**

Application Exh.70 is hereby rejected.

Dt.15/12/2022

**( Md. Taher Bilal )**  
Civil Judge J.D., Saswad.



**CERTIFICATE**

I affirm that the contents of this P.D.F. file Judgment are same word for word as per original Judgment.

Name of Steno: S. S. Gupte, Stenographer, (Grade III)

Court Name : Shri. Md. Taher Bilal  
Civil Judge Jr. Division, Saswad.

Date of Order : 15/12/2022

Judgment signed by presiding officer on : 15/12/2022

Judgment uploaded on : 16/12/2022