



Prasad Balkrushna Bhalerao
V/s.
Hiraman Bhimaji Bhalerao

ORDER BELOW EXH. 42

1. This application is filed by defendant Nos.2, 3, 4 and 6 for condonation of delay in filing a written statement and say to the Exh.5.
2. Heard both sides. Considered their submissions.
3. The Ld. advocate for defendants contended that on 15/07/2022 summons were served to defendants and on 08/11/2022 they were appeared through their advocate. The said advocate for defendants was suffering from kidney disease and therefore, defendants were unable to contact with him. He also submitted that defendant No.2 is suffering from eye disease and therefore, defendant Nos. 2 and 3 were need to go hospital for eye treatment. The defendant No.6 is an old age. Therefore, defendants could not file written statement within limitation. There is a delay of 1 year 8 month and 15 days in filing written statement. To decide the matter on merit it is necessary to condone the delay and written statement be taken on record. The delay was not intentional. If the application is rejected then defendants will suffer irreparable loss. Hence, he prayed to allow the application and condone the delay.
4. The Ld. advocate for the plaintiff has filed say. He submitted that there is huge delay in filing present application. Hence, prayed to heavy cost may be imposed.
5. Perused record. It appears from that the suit has filed for partition and separate possession. On perusal of the application, it appears that due to

an old age, diseases the defendants could not file their written statement within 90 days from the service of summons.

6. Further, in view of the provision of Order VIII Rule 1 of the Code of Civil Procedure, the defendants were duty-bound to submit their written statement within a stipulated period of 90 days after service of summons. However, the suit claim is for partition and separate possession. The written statement is a preliminary defense of the defendants, where the defendants raises their objection to the plaintiff's claims and puts forth their version of events. Therefore, it is necessary for deciding the suit on merit.

7. If the application is rejected, the defendants will not get the opportunity to put their case on record. Considering the facts and circumstances of the suit in hand, and the reasons mentioned above, also in order to give fair opportunity of hearing, application needs to be allowed. The delay in filing the written statement can be compensated in terms of money. Accordingly, in the interest of justice and for deciding the suit on merit, I pass following order.

O R D E R

- 1) The application at Exh.42 is allowed subject to a cost of Rs.1,000/- be paid to the plaintiff.
- 2) The written statement and say of the defendant Nos.2, 3, 4 and 6 is taken on record after payment of the above cost.

Sd/-

(Sneha Sunil Pulujkar)
2nd Jt. Civil Judge Juinor Division,
Ghodegaon, Dist. Pune

Date : 08/09/2025

CERTIFICATE

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

Name of the Court	: Smt. Sneha Sunil Pulujkar, 2nd Jt. Civil Judge Junior Division, Ghodegaon, Dist. Pune
Name of the Steno	: J. S. Kaite, Steno Grade - III.
Order date	: 08/09/2025
Order signed by P.O. on	: 08/09/2025
Order uploaded on	: 08/09/2025