

MHRG140015212025



COMMON ORDER BELOW EXHIBIT-25 & 27

1. This common order shall dispose of two interconnected applications filed by Defendant No. 7, namely (i) Exhibit-25, which is an application seeking condonation of a delay of approximately 90 days in filing the written statement, and (ii) Exhibit-27, which is an application seeking to set aside the automatic de facto order of 'No Written Statement' and permission to take the written statement on record.

2. It is the case of Defendant No. 7 that the Plaintiffs have filed the present suit for partition, declaration, and permanent injunction. Summonses and notices in the suit were served upon the Defendants on 10/09/2025. In response, Defendant No. 7 entered her appearance through her advocate on 12/09/2025. It is contended that the written statement could not be filed within the prescribed statutory period, resulting in a delay of about 90 days (beyond the initial 30 days limit). Defendant No. 7 submits that the delay was neither intentional nor deliberate. The delay occurred because crucial documents concerning the suit properties had to be obtained from the offices of the Tahsildar, Talathi, and the Sub-Registrar, which took

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considerable time. Additionally, it is contended that the copy of the documents on which the Plaintiffs have relied was not served along with the summons, and the same was received late. Defendant No. 7 asserts that she has a strong case on merits, and if she is not permitted to file her written statement, she will suffer irreparable loss. She is presenting her written statement along with these applications today (09/01/2026) and prays for condonation of delay and setting aside of the 'No Written Statement' order.

3. The Plaintiffs have strongly resisted both the applications by filing their say on Exhibit-25. The Plaintiffs contend that the Defendant has delayed the filing of the written statement solely with the intention of dragging and prolonging the litigation. They submit that the conduct of Defendant No. 7 lacks bona fides. However, in the alternative, the Plaintiffs have submitted that if the Court is inclined to condone the delay and take the written statement on record, the same may be allowed only upon imposition of exemplary costs. By a separate endorsement, the Plaintiffs have prayed that their say on Exhibit-25 be read as their say for Exhibit-27 as well.

4. I have heard the learned counsel for both the parties and have carefully perused the record, including the applications Exh. 25 and 27, the objections filed by the Plaintiffs, and the written statement tendered by Defendant No. 7.

5. It is undisputed that the summons was served on the

Defendants on 10/09/2025, and Defendant No. 7 appeared through her advocate on 12/09/2025. The written statement was required to be filed within 30 days, which expired on 10/10/2025. The outer directory limit of 90 days expired on 09/12/2025. The present applications, along with the written statement, have been presented on 09/01/2026. Thus, there is indeed a delay of about 90 days beyond the initial 30 days, and the written statement is presented about one month after the expiry of the maximum 90 days window.

6. The Applicant/Defendant No. 7 has explained that the delay occurred because she had to collect essential certified copies of land revenue records, including mutations and registry records from the offices of the Tahsildar, Talathi, and Sub-Registrar, which are critical to draft her defense in a suit for partition. Furthermore, the allegation that some documents relied upon by the Plaintiffs were not served with the summons has not been effectively refuted by the Plaintiffs. The procurement of public documents from administrative offices is known to involve procedural delays. Therefore, the explanation offered by Defendant No. 7 appears to be plausible, reasonable, and bonafide, demonstrating 'sufficient cause' for the delay.

7. It is a well-settled position of law that the provisions of Order VIII Rule 1 of the Code of Civil Procedure, 1908, prescribing the time limit for filing a written statement, are directory and not mandatory in non-commercial suits. In this regard, I draw support

from the landmark judgment of the Hon'ble Supreme Court in **'Kailash vs. Nanhku', 2005 (4) SCC 480**, wherein the Hon'ble Apex Court observed: "The provisions of Order VIII, Rule 1 of the CPC are directory and not mandatory. The object of prescribing time limit is to curb dilatory tactics and not to shut out the defense of a party. In an exceptional case, the Court can extend the time beyond 90 days by imposing costs."

8. Similarly, the Hon'ble Supreme Court in **'Sandeep Thapar vs. Madan Lal Kapoor', 2019 (1) Mh.L.J. 712**, reaffirmed that rules of procedure are handmaids of justice, designed to facilitate the administration of justice rather than to defeat it. A party should not be denied an opportunity to present their defense on merits unless there is gross negligence, deliberate inaction, or a clear attempt to abuse the process of the court.

9. In the present case, the suit is of a civil nature seeking partition and declaration of rights over properties. In such matters, a decision on merits after hearing both sides is always desirable to ensure complete justice and to avoid multiplicity of proceedings. Shutting out the defense of Defendant No. 7 at this threshold stage would cause grave and irreparable prejudice to her. On the other hand, any inconvenience or delay caused to the Plaintiffs can be adequately compensated in terms of money. The Plaintiffs themselves have alternative pleadings in their say, requesting the court to impose maximum costs if the applications are to be allowed.

Therefore, balancing the equities, it is just, fair, and proper to condone the delay and set aside the 'No WS' order, subject to reasonable costs. Hence, I proceed to pass the following final order:

ORDER

1. The applications at Exhibit-25 and Exhibit-27 are hereby allowed.
2. The delay of about 90 days in filing the written statement by Defendant No. 7 is hereby condoned.
3. The de facto 'No Written Statement' order against Defendant No. 7 is set aside.
4. The Written Statement tendered by Defendant No. 7 be taken on record, subject to the payment of costs of Rs. 1,000/- (Rupees One Thousand Only) to be paid by Defendant No. 7 to the Plaintiffs within two weeks from the date of this order.
5. If the defendant No-7 fails to pay cost amount, this order shall be deemed to be vacated.

Uran,
Date : 12.06.2026

(S. P. Wankhade)
Civil Judge, J.D., Uran