

**Order below Exh.52 in Special Civil Suit No.95/2023**

Through this application, defendant Nos.2 and 3 prayed to set aside no written statement order dated 05/02/2024 and permission to file their written statement on record.

02. Perused the application and say filed by plaintiff. Heard, learned advocates for both the parties.

03. It is contention of learned advocate for defendant Nos. 2 and 3 that due to illness of defendant No.2 and want off necessary documents, they could not file written statement within time. Consequently, there is no written statement order against them. According to them, there was no deliberate delay on their part in submitting written statement. Thus, prayed to allow the application.

04. On the other hand, plaintiff contended that reason cited in the application are not just and proper. Defendant with intent to delay hearing of Exh.5 deliberately not file written statement within time. For the reason, prayed to reject the application. Alternatively, plaintiff prayed for heavy costs in case the application is allowed.

05. Given thoughtful consideration to rival submission. Reason cited in the application for not filing written statement within time can not be over ruled. On the contrary, reason cited in the application appears justified. Besides considering nature of the reliefs claimed under the suit, I am of the view that fair opportunity needs to be given to defendant Nos. 2 and 3 to defend the

plaintiff's claim. Permitting defendant Nos. 2 and 3 to file the written statement on record, setting aside no written statement order will cause no prejudice to plaintiff. On the contrary, the suit will be disposed of on merits putting an end to dispute between the parties. With these observations, I am inclined to allow the application. Resultantly, following order.

**ORDER**

1. Application is allowed.
2. No written statement order against defendant Nos.2 and 3 is set aside on payment of costs of Rs.600/- (Rs. Six hundred) payable to plaintiff.
3. On payment of costs, defendant Nos.2 and 3 are permitted to file the written statement on record.

Place: Mahad  
Date : 09/02/2024

Sd/-  
**(P. M. Unhale)**  
Civil Judge, S.D. Mahad