



ORDER BELOW EXHIBIT 26 IN RCS NO. 91/2018

This is an application by defendant No. 1 for setting aside no written statement order dated 27/02/2019 and for permission to file written statement.

[2] It is contended by defendant No. 1 that he could not obtain the necessary documents from the revenue department. Moreover, due to his job he could not get time to remain present in the Court. So he could not file his written statement on record within time. But he has not deliberately caused delay in filing the written statement. On 27/02/2019 no written statement order is passed against him. If he is not allowed to file his written statement, it will cause irreparable loss to him. Hence, the present application. Per contra, the plaintiff strongly resisted the application by filing his say. It is his contention that application is false and frivolous. Defendant No. 1 has not given any plausible explanation for not filing his written statement within time. Even after given sufficient time for filing the written statement, defendant No.1 has filed his written statement after 9 months. Hence, it is prayed that the application be rejected and if allowed costs may be imposed on him.

[3] Heard. Perused the record of the case.

[4] The present suit is filed for partition and separate possession. The record of the case shows that no written statement order was passed against defendants No. 1 on 27/02/2019. The reasons mentioned in the application for not filing written statement within time are supported by an affidavit. It is matter of record that

there is delay in filing of WS. But considering the nature of suit and the fact that the rights of both the parties are involved, it is necessary to give an opportunity to them to put forth their case on merits. It is a principle of natural justice that both the parties should have an opportunity to contest their case on merits. However, there is considerable delay in filing of the written statement. Considering the delay of almost one year, costs of Rs. 300/- will afford sufficient compensation to the plaintiff. Therefore, the application is liable to be allowed. Hence, I proceed to pass the following order.

ORDER

The application is allowed.

The no written statement order dated 27/02/2019 is set aside and defendant No. 1 is allowed to file his WS on record subject to payment of costs of ₹ 300/- to the plaintiff.

Date : 02/11/2019
Place : Malvan

Bhanupratap Chouhan
Civil Judge Junior Division

"CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL
SIGNED ORDER/JUDGMENT."

UPLOAD DATE AND TIME	Chandrakala Vasant Chavan NAME OF STENOGRAPHER
Name of the PO	Shri. Bhanupratap Chouhan
Date of pronouncement	02/11/2019
Order signed by PO on	02/11/2019
Order uploaded on	02/11/2019