



ORDER BELOW EXHIBIT 30 (IA No. 1/2019) IN RCS  
NO. 35/2017

This is an application by defendant No.1 for setting aside no written statement order dated 22/07/2019 and for permission to file written statement.

[2] It is contended by defendant No.1 that she was old and due to her illness she could not remain represent in the Court. Further, due to unavailability of necessary documents, she could not file her written statement on record within time. But she has not deliberately caused delay in filing the written statement. But no written statement order is passed against her. If she is not allowed to file her written statement, it will cause irreparable loss to her. Hence, the present application. Per contra the plaintiff strongly resisted the application by filing his say. It is his contention that application is false, frivolous and reason mentioned in the application is not false. There is no evidence produced for illness. Delay is caused due to negligence of defendant No.1. Hence, it is prayed that the application be rejected.

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

[4] The present suit is filed for declaration and partition. The record of the case shows that no written statement order was passed against defendant No.1 on 22/07/2019. 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 2 years, costs of ₹ 500/- 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 22/07/2019 is set aside and defendant No.1 is allowed to file her WS on record subject to payment of costs of ₹ 500/- to the plaintiff.

Date : 04/01/2020  
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	04/01/2020
Order signed by PO on	04/01/2020
Order uploaded on	04/01/2020