



**ORDER BELOW EXHIBIT 75 IN RCS NO. 80/2018**

This is an application by defendant No. 2 for permission to file written statement.

[2] It is contended by the defendant No.2 that he was served with the suit summons on 28/01/2019. But he was unable to file his written statement till date of this application because he had gone abroad for business purposes. Moreover, during the aforesaid period he was ill. Therefore, he could not meet his advocate and give information for filing written statement. It was necessary for defendant No. 2 to file written statement. The plaintiffs will not suffer any prejudice if the written statement is taken on record. Hence the present application. Per contra the plaintiffs strongly resisted the application by filing say. It is their contention that the application is false and frivolous. The reasons mentioned in the application are not plausible. There is no documentary evidence on record in support of his contention. The delay is intentional. Hence, it is prayed that the application be rejected.

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

[4] The present suit is filed for partition and declaration. The record shows that defendant No. 2 is served with suit summons on 28/01/2019. Admittedly, there is a delay of 170 days in filing of the written statement. It is a principle of natural justice that both the parties should have an opportunity to contest their case on merits. The reasons mentioned in the application are supported by an affidavit and appear plausible to me. No prejudice will be caused to the plaintiffs if the application is allowed. Therefore, the application is liable to be allowed. However, considering the delay of 170 days appropriate costs need to be imposed on defendant no. 2. Hence, I proceed to pass the following order.

**ORDER**

The application is allowed.

Defendant No.2 is allowed to file his written statement on record subject to payment of costs of Rs. 300/- to the plaintiffs.

Date : 20/08/2019  
Place : Malvan

Bhanupratap Chouhan  
Civil Judge Junior Division.

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

Chandrakala Vasant Chavan  
NAME OF STENOGRAPHER

|                       |                           |
|-----------------------|---------------------------|
| Name of the PO        | Shri. Bhanupratap Chouhan |
| Date of pronouncement | 20/08/2019                |
| Order signed by PO on | 20/08/2019                |
| Order uploaded on     | 21/08/2019                |