

ORDER BELOW EXH.77 IN R.C.S. NO.52/2022
CNR-No-MH-SI-08000353-2022

1. This is an application to accept the written statement filed by defendant No.2. The defendant submitted that, he was out of town for his unavoidable work. There is no any intention of delaying the suit. It is also submitted that, if the application is not allowed the defendant would suffer irreparable loss. Therefore, defendant prayed to meet the ends of justice condone the delay and to accept his written statement.
2. *Per Contra*, plaintiffs have strongly opposed the application. It is submitted that, though defendant appeared in the court through his counsel but, he could not file his written statement within provided time. It is further submitted that, the defendant has intentionally avoided to file the written statement and therefore the application is liable to be rejected. It is alternatively prayed that, if the court thinks fit to allow the application costs of Rs.2,000/- be imposed on the defendant while allowing the application.
3. Heard Ld. Advocate **Shri.R.V.Raorane** for the defendant No.2 and Ld. Advocate **Shri.S.K.Marathe** for the plaintiffs.
4. As per the record, the defendant No.2 could not file his written statement within provided time though time to time he sought extension to file the written statement. Suit is for declaration and injunction related with immovable property. Therefore, considering nature of the suit it would be just and proper to adjudicate the suit on merits and to determine the rights of the party on merit once for all. Therefore, considering overall aspect, nature of suit and in the interest of justice I am of the considered opinion that, application deserves to be allowed. Hence I proceed to pass the following order -

Manohar Sawant Vs.
Gita Yadav and others

R.C.S.No. 52/2022
(Order below Exh.77)

	<u>ORDER</u>
1	Application at Exh.77 is hereby allowed subject to the costs of Rs.500/- (Rupees Five hundred only) pay to the plaintiffs on or before next date.
2	Costs shall be the condition precedent for further prosecution of suit.
3	On deposit/payment of the costs the Written Statement of defendant No.2 shall be read and recorded.
4	Suit shall proceed further accordingly.

Date : 21/08/2023.

(M.B.Sontakke)
Jt.Civil Judge (J.D.),
Kankavali.