

MHSN050037652024



Order below Exh.22 in
Spl. C.S. No.111/2024
(Dt. October 1, 2025)

1. The present application has been filed by Defendant No.1 seeking for setting aside the order of this Court directing 'no written statement' against Defendant No.1.

2.1 It is claimed that the present plaintiff filed R.C.S. No.49/2021 against the defendant for setting aside decree in R.C.S. No.49/2021 and perpetual injunction. The suit summons was served upon Defendant No.1 on 13/1/2025. Defendant No.1 recorded his appearance through his Ld. Advocate. However, the order passed on 5/2/2025 against the defendant directing 'no written statement'.

2.2 It is further claimed that there are several litigation between the plaintiff and the defendant as R.C.S. Nos.335/2024, 111/2024, 20/2025, R.D. No.48/2025, R.C.S. No.88/2024, Writ Petition Nos.93816/20, 93818/20 and 93819/2019. Also, appeals before the Revenue Courts. Therefore, the time was required for seeking the inspection and documents. Therefore, the written statement could not be filed in time. Accordingly, this application

is set out seeking for setting aside the order passed by this Court dt.5/2/2025 for proceeding without written statement against the defendant. It is also claimed that if this application is not considered, it will cause an irreparable loss to the defendant which cannot be compensated in terms of money.

3.1 The reply to this application for the plaintiff is recorded at Exh.26. The application is opposed. It is contended that the present application is not mentioning the delay for written statement. The application is without specific pleading of the delay in terms of days and without any substantial cause.

3.2 It is further contended that defendant appeared through his Ld. Advocate on 13/1/2025 and sought time to file written statement. Thereafter, he were to file his written statement till 13/4/2025. She deliberately did not file her written statement. Therefore, no written statement was directed by this Court on 13/2/2025. The defendant was taking the information as to the progress of the suit without appearing before the Court. The defendant was reluctant to appear before this Court to avoid consequences of the present suit upon the appeal before the Revenue Court. The defendant is disputed to have knowledge and documents regarding all the litigation referred in this application.

3.3. It is further disputed that there is delay of as many as eight months for filing written statement. It is also contended that the statement that there were adjournments sought is false one. The Vakalatnama now filed was without the 'no objection' of previous Ld. Advocate engaged by the defendant. Therefore, Defendant No.1 was intending to delay. The defendant secured the compromise decree misleading the Court. Therefore, she is intending to delay the present proceeding to deprive this plaintiff of the justice in this suit.

3.4 The application is disputed to be without any reference of the documents which were needed to the plaintiff in written statement. The application is vague. It is without any verification or affidavit in support. Therefore, the application is contended to be liable to be dismissed with costs.

4. Heard the Ld. Advocate for Defendant No.1 as well as Ld. Advocate for the plaintiff. They wrangled according to respective application and reply.

5. Considered the record before the Court.

6. The present suit has been filed seeking for the

declaration that decree in Special Civil Suit No.49/2021 dt.19/11/2021 is void and illegal. Further, the perpetual injunction is sought against the defendant restraining the defendant from obstructing the plaintiff his possession and creating any third party interest over the suit property. Defendant No.1 appeared through her Ld. Advocate at Exh.15. Thereafter, written statement for Defendant No.1 was not filed. Therefore, this Court passed the order of 'no written statement' against Defendant No.1. This application is set out claiming opportunity to file written statement to contest. The reason assigned is that there are multiple number of litigation between the parties. Time was required for getting necessary documents.

7. The application is vague without giving necessary particulars of the documents requisite for the written statement. But it appears undisputed position that there are multiple litigations. The suit is at the initial stage. The valuable rights of the parties are involved in the subject matter of the suit. Defendant No.1 should be given opportunity to contest this suit. For this purpose, the written statement of Defendant No.1 should be taken on record. This will enable the parties to contest on merits. Besides, it will curtail the potential multiplicity of the proceeding. For the delay caused, Defendant No.1 should be saddled with

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costs. Ergo, the order follows in the interest of justice as..

	<u>ORDER</u>
01.	The present application is hereby allowed subject to costs of Rs.500/- (Rupees Five Hundred Only);
02.	The amount of costs be given to the Library of Taluka Bar Association, Islampur.
	(Dictated and pronounced in open Court.)

Dt. October 1, 2025

(Maneesh Nanabhau Phatangare)
Civil Judge Senior Division,
Islampur

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C E R T I F I C A T E

I affirm that, the contents of this P.D.F. file judgment/order are same, word to word, as per the original judgment/order;

Name of the Stenographer : S. A. Desai (Grade-II)

Court Name : Civil Court Sr. Dn., Islampur

Date of judgment/order : 1/10/2025
Judgment/Order signed by the

Presiding Officer on : 3/10/2025

Judgment/Order uploaded on : 3/10/2025