

MHSN050042532022



Order below Exh.23 in
Spl.C.S. No.94/2022
(Dt. November 15, 2025)

1. The present application has been filed by the defendant seeking for setting aside 'no written statement' order directed by this Court dt. 20/2/2025. It is claimed that the present suit has been filed seeking for the decree for recovery of the amount from the defendant. The defendant was duly served with the suit summons.

2.1 It is disputed that the plaintiff revoked the contract for sugarcane cutting and transport with the defendant without any reasonable cause and notice thereabout to the defendant. It resulted in an irreparable loss to the defendant. It is further disputed that in result, the defendant were to face the attachment of movable and immovable properties. Financial crises to the defendant caused hardship to in engaging the advocate for him. Finally, the defendant managed with the assistance of his friends an relatives to engage the present advocate for him. The defendant lost his financial and mental capacity in meeting with his day to day needs. Therefore, the defendant could not prepare his written

statement and defence in time. The defendant has preferred a separate application to proceed with his counter claim as an indigent person.

2.2 It is claimed that after the present application is considered and the written statement of the defendant is taken on record, it will not cause any loss to the plaintiff. On the contrary, it will be helpful to adjudicate the suit on merits. If this application is not considered, the defendant will not be able to put up his defence and face an irreparable loss. It is also claimed that the delay caused is not deliberate one.

Accordingly, the application is set out for setting aside 'no written statement' directed against the defendant and allow him to file his written statement and counter claim.

3.1 This application is replied by the plaintiff at the back leaf of application itself. The application is opposed. It is contended that the present application is containing the false statements to grab the sympathy of the Court. The application is revealing prima facie negligence on the part of the defendant. The application is further disputed to be liable to be rejected as per the amended provision of the Code of Civil Procedure, 1908 ("the CPC" for brevity).

3.2 Heard the Ld. Advocate for the defendant as well as the Ld. Advocate for the plaintiff. They wrangled according to their respective application and reply.

4. The Ld. Advocate for the defendant underscored that the economic crises followed on revocation of contract on the part of the plaintiff. The defendant were to face attachment of movable as well as immovable properties for the financial dues. Further, the defendant has set out his counter claim as well as application to proceed with the counter claim as an indigent person. The Ld. Advocate for the plaintiff while resisting this application submitted that the summons were to be served by the paper publication. There is no substantial cause set out in this application to condone this delay.

5. Considered the record before the Court.

6. The present suit has been filed by the plaintiff for the recovery of amount of Rs.44,22,866/-. The defendants were served with suit summons by the paper publication on 28/9/2024. There is copy of the relevant newspaper publication, the suit summons at Exh.15 dt.28/9/2024. The present application for setting aside 'no

written statement' is filed on 28/8/2025. To justify the present application the defendant has set out his economic condition disputing the same to be worse by reason of revocation of contract by the plaintiff. At Exh.24, the defendant has filed an application for permission to proceed with his counter claim as an indigent person. The written statement and counter claim sought to be taken on record reveals that the counter claim is set out for the recovery of sum, as much as, Rs.3,74,31,224/- from the plaintiff. Therefore, it is certain that the parties have a claim of huge sum against each other. Besides at Exh.No.24 there is an application for permission to proceed with his counter claim as an indigent person coupled with the supporting documents filed. Therefore, in the considered view of this Court, the defendant should be extended the opportunity to defend the suit on merits together with his counter claim. As the defendant is seeking for permission to proceed with counter claim as an indigent person no order of costs is saddled upon him. This application if considered would enable the parties to contest on merits and curtail potential multiplicity of the proceedings. At the same time, the suit and counter claim of the parties should be disposed on merits without unreasonable delay on the part of the parties. Therefore, the proceedings should be expedited. Ergo, the order follows in the interest of justice as..

CNR No.MHSN050042532022
Order Below Exh.23

Spl.C.S. No.94/2022
Rajarambapu Patil Sah. Sakhar Karkhana vs.
Saurabh Ghodake

<u>ORDER</u>	
01.	The present application is hereby allowed subject to the direction of proceeding with the suit and counter claim promptly;
02.	The present suit is hereby expedited and to be disposed at the latest till 15/11/2026;
03.	The parties to take note and proceed accordingly.
(Dictated and pronounced in open Court.)	

Dt. November 15, 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 : 15/11/2025
Judgment/Order signed by the

Presiding Officer on : 15/11/2025

Judgment/Order uploaded on : 17/11/2025