

**ORDER BELOW EXH. 18**  
*(Passed on 21<sup>st</sup> September, 2019)*

This is an application filed by the defendant Nos. 1 to 4 for setting aside No WS order.

**The application, in brief, is as under :-**

2. According to above defendants, after service of summons, they appeared, however, in the meantime, learned advocate representing defendant No. 1 to 4 Shri. V. P. Koulgud had undergone the operation of his Eye. Therefore, after the advice of the concerned doctor from he started reading and his Court work. However in the mean time, no-WS order came to be passed. Lastly it is stated that, considering their interest in the suit properties they may be permitted to file the say and written statement.

3. Plaintiff has filed his say below it and stated that, the reason given by the above defendants for not filing written statement within limitation is not proper. But, plaintiff prayed for appropriate orders subject to costs.

4. I have gone through the record, it reveals that on 03.10.2018, above defendants were served, on 12.11.2018 the above defendants appeared but failed to file their written statement within period of limitation which expired on 02.01.2019 and the present application is made on 23.01.2019. Therefore, there is delay of only 21 days in filing of written statement.

5. However, the present suit is filed for partition & separate possession. Therefore, the above defendants are necessary parties to the present suit. If that being so, in order to have effectual adjudication of the matter, an opportunity is required to be granted to above defendants for raising their defence. As mentioned above, considering the nature of the suit, the delay of 21 days in filing written statement can well be compensated in terms of costs to the plaintiff. Hence, considering all the aspects, I pass the following order:-

**ORDER**

1. The application is allowed subject to payment of costs of Rs. 200/- to the plaintiff.
2. Written statement of the defendant Nos. 1 to 4 be taken on record after receipt of costs to the plaintiff.

Date :- 21.09.2019  
K'Mahankal.

Civil Judge Junior Division  
K'Mahankal.