

R.C.S. No.67/2023
Pandurang Solankar
Vs.
Vittal Solankar & Ors;

COMMON ORDER BELOW EXH. NO.27 & 29

Defendant Nos.2 to 4 have filed both applications for granting permission to them to file written statement on record after setting aside no written statement order passed against them.

2. Read applications and say filed by the plaintiff overleaf of the applications. Heard Ld. Advocate for both parties. Perused the record.

3. It appears that the plaintiff has instituted this suit for partition, injunction and declaration. After service of summons defendant Nos.2 to 4 appeared before Court but did not file their written statement on record within stipulated time. Resultantly, no written statement order passed against them on 18/01/2024. These applications have been filed on 29/02/2024. It is submitted that, due to lack of necessary documents, they could not file their written statement on record within limitation. As such 2 ½ months delay has been occurred for filing the same on record.

4. It is submitted on behalf of the plaintiff that, the applications filed by defendant Nos.2 to 4 are false and reasons mentioned for delay to file written statement are not true. The cause of delay have not been explained by defendant Nos.2 to 4 properly. Defendant Nos.2 to 4 to prolong the proceeding of the suit have deliberately not filed written statement on record. If, the Court comes to the conclusion to allow the applications, then heavy costs be imposed on the defendants.

5. As a matter of record the defendant Nos.2 to 4 did not file their written statement within stipulated time. Therefore, on 18/01/2024 no written statement

order has been passed against them. Now, defendant Nos.2 to 4 are ready to contest the suit by filing their written statement on record. The suit is filed for partition, injunction and declaration. Therefore, right and interest of these defendants are involved in the suit. To decide the suit on merit, it is necessary to have an opportunity to both the parties to take part in the proceeding of the suit. In adversarial system every party shall get an opportunity of hearing. Procedure law should not be an obstruction in the justice dispensation system. So far as delay is concerned the same can be condoned by imposing costs upon defendant Nos.2 to 4. Considering the above facts and circumstances, I pass following order:

ORDER

1. The applications Exh.27 and 29 are allowed.
2. No written statement order passed against defendant Nos.2 to 4 on 18/01/2024 is set aside subject to costs of Rs.300/-.
3. Defendant Nos.2 to 4 are permitted to file their written statement on record after paying costs of Rs.300/- to the plaintiff.

Date :- 21/08/2025

(U. B. Pethe)
Jt. Civil Judge Junior Division,
Malshiras.

C E R T I F I C A T E

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment/order :-

- | | | |
|---------------------------------------|----|---|
| (a) Name of the Stenographer | :- | S. S. Mitragotri |
| (b) Court | :- | Jt. Civil Judge Junior Division and
Judicial Magistrate First Class, Malshiras |
| (c) Judgment/Order signed
by PO on | :- | 21/08/2025 |
| (d) Judgment/Order uploaded
on | :- | 21/08/2025 |