

ORDER BELOW EXH.23 OF RCS NO.263/2014

1. Perused the application and say. Through this application defendant no.3 to 5 submitted that defendant no.4 and 5 were out of station for education purpose. Defendant no.3 is woman whose husband was murdered. Hence, due to sadness and mental agony she failed to give full information with respect to factual aspects of this suit, to her advocate. Hence, critical mental condition of defendant no.3 and absence of defendant no.4 and 5 due to education resulted into non filing of written statement before court within stipulated time. Hence, considering these reasons and in the interest of justice, they prayed for setting aside No W.S. Order and permission to file his written statement on file.
2. The plaintiff resisted the applications by filing his say. He contended that, for causing delay defendant no.3 to 5 intentionally avoided filing written statement in time. Hence, firstly he prayed for rejection of this application. In alternative he prayed for allowing of applications only on imposing heavy cost on defendant no.3 to 5.
3. This is suit for fixation of boundaries and for perpetual injunction. In this kind of suit persons having interest in the suit property are necessary parties. The presence of defendant no.3 to 5 and their written statement on record is essential for complete and final adjudication of the suit. Hence, to decide the suit on merits and in the interest of justice the application deserve to be allowed. The reason mentioned in the application appears to be quite reasonable and justifiable. At the same time delay of at about 3 months caused for filing written statement should not be overlooked. Hence, the loss of valuable time

of the Court and unnecessary delay caused for the progress of this suit must be compensated by awarding cost in plaintiff's favour. Hence, application deserves to be allowed only by awarding cost to the plaintiff and imposing the same on the defendant no.3 to 5. Hence, I proceed to pass following order.

ORDER

1. The application is allowed. No W.S. order passed against defendant no.3 to 5 is hereby cancelled subject to cost of Rs.300/- payable to the plaintiff by defendant no.3 to 5.
2. The written statement of the defendant no.3 to 5 be taken on record only after payment of cost amount.

Date: 08.10.2015

(Mahesh D. Joshi)

Joint Civil Judge Junior Division, Karmala

CERTIFICATE

I affirm that the contents of this PDF file order is same word to word as per the original order.

(a) Name of the Stenographer	:-	Gajanand L. Sutar
(b) Court	:-	Jt. Civil Judge Jr. Div. & JMFC Court, Karmala
(c) Order signed by P.O.on	:-	08.10.2015
(d) Order uploaded on	:-	12.10.2015