

**ORDER BELOW EXH. 28 IN R.C.S. No. 27/2020**  
**(MHSO180002242020)**

This is an application filed by defendant no. 1 for condonation of delay to file written statement and say.

2. Perused application and say of plaintiffs. Heard learned advocate for both the parties.

3. By this application defendant no. 1 has requested to condone the delay to file written statement and say to the suit. According to defendant no. 1, due to non-availability of information and documents and lack of legal knowledge, delay of 2 months and 10 days has been caused to file written statement and say on record. He has not intentionally causing the delay. If opportunity is not given to him to file written statement and say, he will suffer great loss. Therefore, he prayed to allow the application.

4. The plaintiffs filed their say and submitted that, they have not admitted the application and the reason is not proper. Hence, they prayed to reject the application.

5. On perusal of record, it reveals that, the suit is filed for partition and separate possession. Defendant no. 1 has not filed written statement and say within stipulated period on record. However, it is well settled principle of law that litigation has to be decided on the merits and not technicalities. Opportunity to file written statement and say needs to be given to parties to put forth their contentions/defence being principle of natural justice. The substantial rights of the parties are involved in the matter. Therefore, the effective adjudication of suit on merits requires contest and participation of rivals. Further, if the application is rejected and permission to file written statement and say is not granted, defendant

no. 1 will suffer hardship. He will not get the opportunity to defend himself. On the other hand, if the application is allowed, no loss will cause to the plaintiffs. Therefore, to decide controversy between parties completely and to avoid multiplicity of proceedings, defendant no. 1 needs to be given opportunity to file his written statement and say.

6. In view of aforesaid discussions to my opinion defendant no.1 needs to be given an opportunity to put forth his defence and the application deserves to be allowed. At the same time the delay and inconvenience caused to the other side is required to be considered and compensated by awarding the cost. Thus, keeping in mind the object of awarding the cost viz. “compensate and not to punish” the application deserves to be allowed subject to cost of Rs.300/-. Accordingly, I pass following order;

**ORDER**

Application is allowed subject to cost of Rs.300/- to be paid by defendant no. 1 to plaintiffs on or before next date.

Date : 13-03-2026

(V.K. Patil)  
Civil Judge J.D., Mangalwedha.

**ORDER BELOW EXH. 30 IN R.C.S. No. 27/2020**  
**(MHSO180002242020)**

This is an application filed by defendant no. 1 praying for setting aside no written statement and say order passed against him on 01.01.2026.

2. Perused application and say of plaintiffs. Heard learned advocate for both the parties.

3. According to defendant no. 1, due to non-availability of information, documents and lack of legal knowledge, he failed to file written statement and say within stipulated period. Now, he filed present application alongwith written statement and say and prayed to allow the application.

4. The plaintiffs filed their say and submitted that, they have not admitted the application and the reason is not proper. Hence, they prayed to reject the application.

5. On perusal of record, it reveals that, the suit is filed for partition and separate possession. Defendant no. 1 has not filed written statement and say within stipulated period on record. Hence, by the present application defendant wanted to file his written statement and say on record by setting aside no written statement and say order. However, it is well settled principle of law that litigation has to be decided on the merits and not technicalities. Opportunity to file written statement and say needs to be given to parties to put forth their contentions/defence being principle of natural justice. The substantial rights of the parties are involved in the matter. Therefore, the effective adjudication of suit on merits requires contest and participation of rivals. Further, if the application is rejected and

permission to file written statement and say is not granted, defendants will suffer hardship. He will not get the opportunity to defend himself. On the other hand, if the application is allowed, no loss will cause to the plaintiffs. Therefore, to decide controversy between parties completely and to avoid multiplicity of proceedings, defendant no. 1 needs to be given opportunity to file his written statement and say.

6. In view of aforesaid discussions to my opinion defendant no. 1 needs to be given an opportunity to put forth his defence and the application deserves to be allowed. At the same time the delay and inconvenience caused to the other side is required to be considered and compensated by awarding the cost. Thus, keeping in mind the object of awarding the cost viz. “compensate and not to punish” the application deserves to be allowed subject to cost of Rs. 300/-. Accordingly, I pass following order;

**ORDER**

Application is allowed subject to cost of Rs.300/- to be paid by defendant no. 1 to plaintiffs on or before next date.

Date : 13.03.2026

(V.K. Patil)  
Civil Judge Jr.Div., Mangalwedha.

**ORDER BELOW EXH. 32 IN R.C.S. No. 27/2020**  
**(MHSO180002242020)**

This is an application filed by defendant no. 2 to 6 for condonation of delay to file written statement and say.

2. Perused application and say of plaintiffs. Heard learned advocate for both the parties.

3. By this application defendant no. no. 2 to 6 have requested to condone the delay to file written statement and say to the suit. According to defendant no. 2 to 6 that, defendant no.2 and 3 are old aged, defendant no. 5 and 6 are ill and defendant no. 4 went to another place for his work, hence delay of 4 years, 9 months and 2 days has been caused to file written statement and say on record. They have not intentionally causing the delay. If opportunity is not given to them to file written statement and say, they will suffer great loss. Therefore, they prayed to allow the application.

4. The plaintiffs filed their say and submitted that, they have not admitted the application and the reason is not proper. Hence, they prayed to reject the application.

5. On perusal of record, it reveals that, the suit is filed for partition and separate possession. Defendant no. 2 to 6 have not filed written statement and say within stipulated period on record. However, it is well settled principle of law that litigation has to be decided on the merits and not technicalities. Opportunity to file written statement and say needs to be given to parties to put forth their contentions/defence being principle of natural justice. The substantial rights of the parties are involved in the matter. Therefore, the effective adjudication of suit on merits requires contest and participation of rivals. Further, if the application is rejected and

permission to file written statement and say is not granted, defendant no. 2 to 6 will suffer hardship. They will not get the opportunity to defend themselves. On the other hand, if the application is allowed, no loss will cause to the plaintiffs. Therefore, to decide controversy between parties completely and to avoid multiplicity of proceedings, defendant no. 2 to 6 need to be given opportunity to file their written statement and say.

6. In view of aforesaid discussions to my opinion defendant no. 2 to 6 need to be given an opportunity to put forth their defence and the application deserves to be allowed. At the same time the delay and inconvenience caused to the other side is required to be considered and compensated by awarding the cost. Thus, keeping in mind the object of awarding the cost viz. “compensate and not to punish” the application deserves to be allowed subject to cost of Rs.2500/-. Accordingly, I pass following order;

**ORDER**

Application is allowed subject to cost of Rs.2500/- to be paid by defendant no. 2 to 6 to plaintiffs on or before next date.

Date : 13-03-2026

(V.K. Patil)  
Civil Judge J.D., Mangalwedha.

**ORDER BELOW EXH. 34 IN R.C.S. No. 27/2020**  
**(MHSO180002242020)**

This is an application filed by defendant no. 2 to 6 praying for setting aside no written statement and say order passed against him on 09.03.2021.

2. Perused application and say of plaintiffs. Heard learned advocate for both the parties.

3. According to defendant no. 2 to 6, defendant no.2 and 3 are old aged, defendant no. 5 and 6 are ill and defendant no. 4 went to another place for his work, they failed to file written statement and say within stipulated period. Now, they filed present application alongwith written statement and say and prayed to allow the application.

4. The plaintiffs filed their say and submitted that, they have not admitted the application and the reason is not proper. Hence, they prayed to reject the application.

5. On perusal of record, it reveals that, the suit is filed for partition and separate possession. Defendant no. 2 to 6 have not filed written statement and say within stipulated period on record. Hence, by the present application defendants wanted to file their written statement and say on record by setting aside no written statement and say order. However, it is well settled principle of law that litigation has to be decided on the merits and not technicalities. Opportunity to file written statement and say needs to be given to parties to put forth their contentions/defence being principle of natural justice. The substantial rights of the parties are involved in the matter. Therefore, the effective adjudication of suit on merits requires contest and

participation of rivals. Further, if the application is rejected and permission to file written statement and say is not granted, defendants will suffer hardship. They will not get the opportunity to defend themselves. On the other hand, if the application is allowed, no loss will cause to the plaintiffs. Therefore, to decide controversy between parties completely and to avoid multiplicity of proceedings, defendant no. 2 to 6 need to be given opportunity to file their written statement and say.

6. In view of aforesaid discussions to my opinion defendant no. 2 to 6 need to be given an opportunity to put forth their defence and the application deserves to be allowed. At the same time the delay and inconvenience caused to the other side is required to be considered and compensated by awarding the cost. Thus, keeping in mind the object of awarding the cost viz. “compensate and not to punish” the application deserves to be allowed subject to cost of Rs.2500/-. Accordingly, I pass following order;

**ORDER**

Application is allowed subject to cost of Rs. 2500/- to be paid by defendant no. 2 to 6 to plaintiffs on or before next date.

Date : 13.03.2026

(V.K. Patil)  
Civil Judge Jr.Div., Mangalwedha.

**CERTIFICATE**

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

- (a) Name of the Stenographer : S.M. Gaddam
- (b) Court : Civil Judge Jr. Div.,  
Mangalwedha.
- (c) Date of order : 13.03.2026
- (d) Order uploaded on : 13.03.2026