

ORDER BELOW EXH. 32 IN R.C.S. No. 206/2025
(MHSO180014692025)

This is an application filed by defendant no. 1 to 3 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 to 3 have requested to condone the delay to file written statement and say to the suit. According to defendant no. 1 to 3, due to non-availability of information, documents and lack of legal knowledge, delay of 1 month, 27 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, the defendants intentionally causing delay to file written statement and say. The delay is inexcusable. Hence, they prayed to reject the application and if application is allowed, cost of Rs.10,000/- be imposed.

5. On perusal of record, it reveals that, the suit is filed for declaration, partition and perpetual injunction. Defendant no. 1 to 3 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. 1 to 3 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 plaintiffss. Therefore, to decide controversy between parties completely and to avoid multiplicity of proceedings, defendant no. 1 to 3 need to be given opportunity to file their written statement and say.

6. In view of aforesaid discussions to my opinion defendant no.1 to 3 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. 300/-. Accordingly, I pass following order;

ORDER

Application is allowed subject to cost of Rs. 300/- to be paid by defendant no. 1 to 3 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. 206/2025
(MHSO180014692025)

This is an application filed by defendant no. 1 to 3 praying for setting aside no written statement and say order passed against them on 25.02.2026.

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

3. According to defendant no. 1 to 3, due to non-availability of information, documents and lack of legal knowledge, 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, the reason mentioned in the application is not proper. Hence, they prayed to reject the application with cost of Rs. 5000/-.

5. On perusal of record, it reveals that, the suit is filed for declaration, partition and perpetual injunction. Defendant no. 1 to 3 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. 1 to 3 need to be given opportunity to file their written statement and say.

6. In view of aforesaid discussions to my opinion defendant no. 1 to 3 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. 300/-. Accordingly, I pass following order;

ORDER

Application is allowed subject to cost of Rs. 300/- to be paid by defendant no. 1 to 3 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