

R. C. S. No. 114/2021  
Avatade V/s. Avatade

**ORDER BELOW EXH.58**  
**(Decided on 05/12/2024)**

Present application has been filed by defendant No.1 thereby requesting to condone the delay for filing written statement by setting aside “no W.S.” order passed against him.

02. Perused application. Heard learned advocates for plaintiff and defendant.

03. Learned advocate for defendant has submitted that, plaintiff has filed instant suit for injunction. After service of suit summons, defendant No.1 appeared in the matter but failed to file his say. Therefore, on 28/08/2024, the court has passed no written statement order against him. Thus, it is necessary to set aside the said order and to permit him to file his written statement on record. No prejudice will be caused to the plaintiff, if application is allowed. Hence, it is prayed that no written statement order passed against aforesaid defendant be set-aside and he may be permitted to file W.S. by condoning delay.

04. The plaintiff filed his say overleaf of application. It is his contention that, the no say order was passed on application at Exh.53. The above said fact was known to the defendant. Only to prolong the proceeding, defendant has filed the present application. The plaintiff argued in the matter and the stage of suit is for order. Hence, plaintiff prayed for rejection of application.

05. Perused roznama and documents on record. It appears that defendant No.1 appeared in the matter but failed to file his say within stipulated time. Defendant has also filed affidavit at Exh.59 to support his contentions. On perusing record and application, it is seen that, the reasons mentioned in the application are seems to be justifiable.

06. So also in view of nature of reliefs claimed by the plaintiff, it is necessary to permit the defendant to file his written-statement otherwise he will suffer from injustice. It is always desirable to decide the matter on merits by giving opportunity to both parties to the suit. Thus, it is just and proper to allow this application. Hence, the following order.

### **ORDER**

- 1) Application (Exh.58) is allowed and delay is condoned.
- 2) No written-statement order passed against defendant No.1 is hereby set aside subject to costs of Rs.300/- to be paid to the plaintiff.
- 3) Defendant No.1 is permitted to file written statement.
- 4) The written statement to be taken on record after compliance of above order.

Date :- 05/12/2024.  
Place :- Mohol.

(Smt. P. S. Govekar)  
2<sup>nd</sup> Jt. Civil Judge Junior Division,  
Mohol.

## **CERTIFICATE**

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

Name of Stenographer	: A.S. Bakale
Court	: Civil Judge Jr. Division, Mohol.
Date	: 05/12/2024
Judgment signed by the Presiding Officer	: 05/12/2024
Judgment Uploaded on	: 06/12/2024