

R. C. S. No. 361/2023
Malgonde V/s. Kore

ORDER BELOW EXH.121
(Decided on 08/04/2025)

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 plaintiffs and defendant.

03. Learned advocate for defendant has submitted that, plaintiffs have filed instant suit for injunction. After service of suit summons, defendant No.1 appeared in the matter but failed to file his say. Therefore, no written statement order was passed 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 plaintiffs, if application is allowed. Hence, it is prayed that no written statement order passed against defendant No.1 be set-aside and he may be permitted to file W.S. by condoning delay.

04. The plaintiffs filed their say overleaf of application. It is their contentions that, the application filed by the defendant No.1 is not true and correct. The defendant No.1 is deliberately not filed his written statement. Reasons mentioned in the application are not appropriate. The delay is inordinate. Defendant is intentionally prolonging matter. Hence, plaintiffs 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. It is their contentions that, defendant No.1 is old aged person and due to unavailability of necessary documents, he failed to file written statement. On the contrary, plaintiffs opposed the application by contending that, defendant deliberately prolonging the matter and prayed for rejection of application. But this is not the sufficient reason to reject the application. Though, defendant has not filed any documentary evidence regarding his contention but defendant No.1 has filed affidavit at Exh.122 to support his contentions. Therefore, the reasons mentioned in the application are seems to be justifiable.

06. So also in view of nature of reliefs claimed by the plaintiffs, 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.121) 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 plaintiffs.
- 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 :- 08/04/2025.
Place :- Mohol.

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

C E R T I F I C A T E

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	: 08/04/2025
Judgment signed by the Presiding Officer	: 08/04/2025
Judgment Uploaded on	: 08/04/2025