

**MHST-0500-0024-2014**  
**IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, KARAD**  
**ORDER BELOW EXH.141 IN Spl.C.S. No.7/2014**

|                                      |                |
|--------------------------------------|----------------|
| 1. Shri.Krishna Babu Kakade & Ors.   | ...Plaintiffs. |
| <b><i>Versus</i></b>                 |                |
| 1. Shri. Babu Yashwant Kakade & Ors. | ...Defendants. |

Advocate Shri. U. L. Patil for the plaintiffs.

Advocate Shri. M. D. Salunkhe for the defendant Nos.1C, 1D, 1E & 2.

Coram : S. B. Todkar,  
C.J.S.D. Karad.  
Date : 07/04/2026

**ORAL ORDER :**

This is an application filed for condonation of delay U/Sec.5 of the Limitation Act, 1963.

2. Perused the application and say. Heard both the sides.

3. As per the contents of the present application the defendant Nos.1, 2, 1C, 1D and 1E have already filed their written statements on record. Keeping their W.S. on record they are filing additional written statements on record. The plaintiffs have added defendant No.7 in the plaint. Defendant No.1 Babu Yashvant Kakade expired on 17/03/2023. He was having account in Satara District Central Co-operative Bank, Branch – Kale. When he expired at that time, an amount of Rs.63,000/- were outstanding there. The defendant No.2 is the nominee to that account being the wife of defendant No.1. Except defendant No.2 no other person is having right, title or interest over that amount. Defendant No.2 was ill therefore, delay caused to file additional written statement on record. For the just decision of the suit on merit it is necessary to condone the delay and to take additional written statement of above mentioned defendants on record. Hence, the application.

4. It appears from the record that plaintiffs have filed present suit against defendants for partition, separate possession, perpetual injunction, recovery of amount alongwith interest, maintenance etc. on the grounds specifically mentioned in the plaint. After receipt of writ of summons defendant Nos.1 to 3 and 5 appeared before Court and filed their written statement at Exh.42 on record. Later on, plaintiff has filed an application at Exh.61, 74, 110, 137 for amendments in plaint, which were allowed time to time and the plaintiffs have carried out necessary amendments in the plaint and supplied copies of amended plaint on record. During pendency of the suit defendant Nos.1 and 4 expired therefore, plaintiffs have impleaded their legal heirs on record. The Court has framed issues at Exh.73 on 15/06/2017. Defendant No.6 has filed his written statement at Exh.82. The plaintiff No.1 filed his affidavit of examination in chief at Exh.101. The plaintiffs have filed amendment application Exh.137 which is allowed on 05/04/2025. Thereafter, the plaintiff has supplied last copy of amended plaint on record on 04/08/2025. It appears from record that, on the same day the Ld. advocate for the defendants received copy of amended plaint. It is admitted fact on record that on 04/08/2025 the defendants have received the copy of amended plaint. Additional Written statement was required to be filed on or before 04/09/2025. Present application is filed on 21/02/2026. After the 30 days from the receipt of the copy of amended plaint the delay of near about 5 months and 16 days delay caused for filing the present application. I have gone through the Exh.1. It appears that no additional written statement order against above defendants is not yet passed.

5. The provision under O. VIII R. 1 of C.P.C.,1908 does not deal with power of Court and also does not specifically take away

power of Court to take written statement on record though filed beyond the time provided for and the plaint of plaintiff being going to be opposed, it shall be adjudicated on merit and for the fair adjudication of the matter in hand, this application deserves to be allowed as the defendant Nos.1C, 1D, 1E, 2 on oath at Exh.142 have given sufficient reasons for causing delay for filing additional written statement. The above defendants have already filed their additional written statement alongwith present application on record. For deciding the real controversy between the parties, considering the nature of suit, allegations made by plaintiff against the defendants, natural justice and opportunity of being heard, it is necessary to give opportunity to the above mentioned defendants to put their additional defense to the claim filed by the plaintiffs. Moreover, in partition suit defendants also be the plaintiffs. Therefore, I found substance in the submission made in the present application. But, due to the filing of the present application delay is caused to proceed the matter ahead. Therefore, plaintiffs are entitled for cost of the delay. Hence, I proceed to pass the following order.

### **ORDER**

1. Application Exh.141 is allowed subject to cost of Rs.500/-.
2. After payment of cost on or before next date by the defendant Nos.1C, 1D, 1E and 2 directly to the plaintiffs if they are present before Court and ready to accept it otherwise deposit in Court delay caused for filing the additional written statement will condoned.
3. After payment of cost bench clerk of this Court is hereby directed to take the written statement filed by the defendant Nos.1C, 1D, 1E and 2 on record.

Date : 07/04/2026.  
Place-Karad.

[S. B. Todkar]  
Civil Judge S.D. Karad.