

CNR MHST-0500-0584-2012

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, KARAD
ORDER BELOW EXH.122 IN R.C.S.No.507/2012

Sou. Ranjana Shashikant Ghadage.	...Plaintiff.
<i>Versus</i>	
1. Shri. Jagannath Shankar Surye (Deleted since deceased) 2. Sou. Shantabai Jagannat Surye & Ors.	...Defendants.

Advocate Shri. S. V. Lokare for the plaintiff.

Advocate Shri. G. P. Shinde for the defendant No.22C

Coram : S. B. Todkar,
C.J.S.D. Karad.
Date : 02/08/2025

ORAL ORDER :-

This is an application filed by defendant No.8 for setting aside no written statement order passed against him and permission to take his written statement on record.

2. Perused the application and handwritten say given by the Ld. Advocate for the plaintiff on the application overleaf. Heard Ld. Advocates for both the side.

3. As per the contents of present application, defendant No.8 was out of station for livelihood purpose therefore, he could not give necessary information and documents for the preparation of written statement to his advocate. Due to that, he could file his written statement on record within time. Meanwhile, no written statement order is passed on 18/03/2014. Present application is filed on 21/09/2018 i.e. after the lapse of near about 4.5 years after passing the no written statement order by the Court. That delay is not intentional. To decide the matter on merit, it is necessary to give him an opportunity to file his written statement on record. Hence, the application.

4. It appears from record that plaintiffs have filed suit against the defendants for declaration, partition and possession of the suit properties on the grounds specifically mentioned in the plaint. After service of writ of summons defendant No.3 and 4 appeared and filed their written statement at Exh.43, defendant No.11 at Exh.46, defendant No.1 at Exh.78, defendant Nos.5 and 6 at Exh.80, defendant Nos.18 to 20 at Exh.116, defendant No.16 at Exh.113, defendant Nos.13 and 14 at Exh.115. No written statement orders are passed against defendant Nos.2, 8, 15, 17. Exparte order passed against defendant No.9. During pendency of suit defendant No.22 i.e. Sampatrao Appaso Survey expired. Plaintiffs have filed application below Exh.23 to bring his legal heirs on record, which is allowed and accordingly, plaintiffs have carried out necessary amendment in the plaint and supplied copy of amended plaint on record. After service of summons defendant No.8 appeared before Court but failed to file his written statement on record within stipulated period therefore, on 18/03/2014 no written statement order is passed against him. Thereafter, he has filed present application for setting aside no written statement order passed against him.

5. The defendant No.8 has given sufficient reason in the present application for not filing his written statement within time. Considering the nature of suit, pleadings in the plaint, rival contentions of the parties it is necessary to give both the parties to plead and prove their case by filing necessary say, written statement, etc. The defendant No.8 has made out case for relief claimed in the present application. It is settled position of law that in a suit for partition all parties interested in partition are treated as plaintiffs. Under this circumstances, if the present application is allowed there will be no harm caused to the plaintiffs, but if the present application is rejected it will cause irreparable loss to the defendant No.8, which cannot be compensated in

terms of money. For filing present application some delay is caused from the date of passing no written statement order against defendant No.8 therefore, plaintiffs are entitled for cost of the delay. Hence, I proceed to pass the following order.

ORDER

1. Application Exh.122 is allowed subject to cost of Rs.1000/-.
2. After payment of cost by the defendant No.8 directly to the plaintiffs or deposit in Court no written statement order passed against them on 18/03/2014 will be set aside and permission will be granted to him to file his written statement on record.

Date : 02/08/2025.

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