

CNR MHST-0500-0584-2012

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, KARAD
ORDER BELOW EXH.155 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 Nos.22A to 22C for setting aside no written statement order passed against them and permission to take their 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 Nos.22A to 22C are poor agriculturists having no legal knowledge. Defendant No.22C is residing at Pune. Due to the above reasons they could not meet their advocate and supply necessary information for the preparation of written statement. Meanwhile, no written statement order is passed. For filing present application 6 months delay is caused. That delay is not intentional. To decide the matter on merit, it is necessary to give them an opportunity to file their 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. Thereafter, Court issued summons to the legal heirs of defendant No.22 i.e. defendant Nos.22A to 22C. They appeared but failed to file their written statement on record within stipulated period therefore, on 04/03/2025 no written statement order is passed against them. Thereafter, they have filed present application for setting aside no written statement order passed against them.

5. The defendant Nos.22B for himself and on behalf of 22A and 22C has on oath given sufficient reason in the present application for not filing their 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 Nos.22A to 22C have 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 Nos.22A to 22C, 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 Nos.22A to 22C therefore, plaintiffs are entitled for cost of the delay. Hence, I proceed to pass the following order.

ORDER

1. Application Exh.155 is allowed subject to cost of Rs.500/-.
2. After payment of cost by the defendant Nos.22A to 22C directly to the plaintiffs or deposit in Court no written statement order passed against them on 04/03/2025 will be set aside and permission will be granted to them to file their written statement on record.

Date : 02/08/2025.

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