

Reg. Civil Suit No. 33/2024

Sampat Gole & Ors. - Plaintiffs

Vs.

Satwashila Shirke & Ors. - Defendants

Order Below Exh. 69

(Dated 12-12-2025)

The present application is filed by defendant Nos. 02 and 03 for setting aside order of no say and written statement. It is contention of defendants that defendant No. 03 and 02 are appeared before the on 26.04.2024 and 20.6.2024 respectively. But they failed to provide the documents and information to their Ld. advocate within time. Defendant No. 2 and 3 are brother of defendant No. 01. As defendant No. 02 was admitted in hospital, defendant no. 3 was taking his care, so they remain absent in the Court. Hence, they could not filed their say and written statement within time. Therefore, no say and no written statement order is passed against them. Hence, to decide the suit on merit, it is necessary to file their say and written statement on record. If, opportunity is not given to them, irreparable loss will be caused to them. Hence, defendant No. 02 and 03 prayed that the delay be condoned and their say and written statement be taken on record.

02. The plaintiffs filed their say below same application and resisted the present application. The plaintiffs contended that defendant Nos. 2 and 3 deliberately failed to file their say and written statement within time. Therefore, heavy cost be imposed on them.

Heard the Ld. Advocates of both sides at considerable length. Perused record.

03. The plaintiffs filed present suit for partition, declaration and perpetual injunction against the defendants. The record shows that defendant No. 3 appeared on 26.04.2024. The present application is filed on 18.12.2024. Defendant No. 3 has to file his written statement and say on 26.05.2025. But, defendant No. 03 did not file written statement within time. Hence, there is 06 months 22 days delay caused to file written statement and say on record. Defendant No. 02 is appeared on 20.6.2024 and the present application is filed on 18.12.2024. Defendant No. 02 has to file his written statement and say on 20.07.2024. But, defendant no. 2 also did not file written statement within time. Hence, there is 07 months 02 days delay caused to file written statement and say on record

04. In present suit, the suit property is immovable property i.e. agricultural land. In present suit, the valuable rights of the parties are to be recognized and or determined in respect of the immovable property. If, defendant Nos. 02 and 03 have given an opportunity to put-forth their defence by way of Say and Written Statement by setting aside 'no Say and Written Statement order' passed against them, the plaintiffs will not suffer any material harm or loss. On the contrary, it will be helpful to decide the matter completely and effectually. The reason mentioned in the application for causing delay is not just and reasonable. Though the defendants have not filed any documents in support of their contention, then also considering nature of the suit, relief sought by the plaintiffs and in the interest of justice, present application filed by defendant

No.02 to 03 deserves to be allowed by imposing cost on them.
Hence, I pass the following order :-

ORDER

- 1] The “*No Say and written statement order*” is hereby set-aside.
- 2] Defendant Nos.02 and 03 is permitted to file their say and written statement subject to cost of Rs. 1000/- to the plaintiffs.

Date : 12.12.2025

(Dr. Vikram A. Avhad)
Civil Judge Jr. Dn., Medha.