

**ORDER BELOW EXH. 19 IN R.C.S. NO.100/2019**

1. This is an application moved by defendant no.1 and 4 for setting aside no written statement order passed against him.
2. It is contended that due to Covid-19 pandemic and they could not available documents. Therefore, they failed to appear before the Court and to file their written statement within limitation. If the application is not allowed and opportunity of filing written statement is not given to them, then it will cause irreparable loss to them. On all these grounds defendants prayed for allowing this application.
3. The application is resisted by the plaintiff by filing say overleaf of the application. The plaintiff has denied the reason for delay as not true and satisfactory. So the application may be rejected or be allowed with heavy costs.
4. Heard both learned advocates & gone through the record of proceeding. The application under consideration is supported by an affidavit. Admittedly there is considerable delay in filing written statement. It is basic principle of law that no one should be condemned unheard. So it will be proper to decide it on merit after giving opportunity of hearing to both sides. It will also help the Court to avoid multiplicity of litigation. Defendants claim that due to Covid-19 pandemic, they could not available documents, they failed to appear before the Court and to file their written statement within limitation. There is no reason to disbelieve the grounds put up in the application.
5. In view of natural justice and to decide the matter on merit, defendants are required to be given an opportunity of putting

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forth their defence. The procedural bottlenecks should not be allowed to come in the way of substantial justice. There is considerable delay in filing written statement due to which matter remained pending on the board. But, delay cannot be the only ground to reject the application. The plaintiff can be compensated by imposing cost on defendant. Hence, in the result I pass following order:-

**:- O R D E R :-**

1. No written statement order passed against defendant no. 1 and 4 are hereby set aside subject to costs of Rs. 500/-.
2. The payment of costs is *pre-condition* to take the written statement on record.

Place : Patan.  
Date :- 14/12/2021.

Sd/-  
(Pramod S. Patil)  
Civil Judge Junior Division, Patan.