

RCS NO. 6/2023

**Shrirang & Ors., Vs. The District
Collector & Ors.**

ORDER BELOW EXH.29

Read an application and the reply filed by plaintiffs . Perused the record. Heard the learned counsel for plaintiffs Adv. Shri. S.S. Kadam and the learned counsel for defendant no. 5 Adv. Shri. V. V. Methawade. The learned counsel for defendant no. 1 AGP Shri. A.P. Kadam is absent when called.

2. Defendant no. 1 and 2 filed this instant application and submitted that, they appeared through their counsel but, they could not file the written statement within the period of limitation on the ground that, on previous date AGP Shri. A.P. Kadam was engaged in session trial. Now, they want to file their written statement and therefore, they prayed to set aside no written statement order and to grant permission to file the written statement.

On the contrary, plaintiffs filed the reply and opposed to this application on the ground that, defendants have not filed written statement within the period of limitation and therefore, prayed to reject the application.

3. On perusal of record, it appears that, plaintiffs filed this suit against all defendants for the perpetual injunction. The suit summons served to defendant no. 1 on 10.03.2023. It is also served

to defendant no. 2 on 03.03.2023. They appeared through their counsel, but they have not filed the written statement within the period. They filed instant application on 08.09.2023. The defendant no. 1 and 2 were required to file written statement within 30 days from the date of service of summons i.e. upto 10.04.2023. There is near about more than five months delay to file the written statement. The reason mentioned in the application is not justified. On the other hand, it is necessary to grant an opportunity to defendants to file written statement and to contest this suit. However, defendant no. 1 and 2 are liable to pay cost to plaintiffs. Accordingly, I proceed to pass the following order.

ORDER

1. The application is allowed.
2. No written statement order against defendant no. 1 and 2 is set aside and they are permitted to file written statement subject to cost of Rs.500/- payable by each defendant to plaintiffs till next date, otherwise this application shall automatically stands rejected.
3. Both the parties are directed to take note of it.

Vaduj
Date: 13.10.2023

(D.D. Fulzele)
Civil Judge Sr.Dn., Vaduj.