

MHTH170015942021

R.C.S. No.93/2021
Vashishtaprasad Ramagya Gupta Vs Nilesh Churi & Ors.
ORDER BELOW EXH. 27
(21/02/2026)

The defendants have filed the present application seeking to set aside the “No Written Statement” order dated 08/08/2025 and to grant them permission to file their Written Statement along with their say to Exh.5 on record.

2. It is contended that, after due service of suit summons, defendant Nos.1 and 2 appeared in the suit on 17/08/2022 and 13/08/2024 respectively. It is further stated that upon inquiry, it was revealed that a similar civil suit bearing R.C.S. No. 76/2020 had earlier been filed by the present plaintiffs against the previous owner of the suit property, which came to be unconditionally withdrawn on 12/12/2020. Thereafter, steps were taken to obtain certified copies of the documents from the said proceedings, and the certified copies were obtained on 19/03/2025. It is further submitted that the learned Advocate for the defendants, Mr. A.P. Adhikari, expired in the month of April, 2025. Consequently, the defendants had to collect the relevant case papers from his office and thereafter engaged a new advocate to conduct the matter. Due to the aforesaid circumstances, the defendants could not file their written statement within the stipulated period. As a result, the suit proceeded without the written statement in view of the order passed below Exh.1 on 08/08/2025. By way of the present application, the defendants seek permission to file their Written Statement and their say to Exh.5 on record in the interest of justice.

3. The plaintiff has filed say at Exh.31 opposing the application. It is contended that the reasons assigned by the defendants are neither justifiable nor supported by cogent grounds. According to the plaintiff, the defendants have deliberately and intentionally delayed the proceedings. The plaintiff has therefore prayed that the application be rejected with costs.

4. I have heard both the parties.

5. Considering rival contentions of the parties following points arise for my determination.

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
01.	Whether applicant/defendants have made out the case to allow the application ?	...Yes.
02.	What order ?	-As per final order.

As to point No.1 and 2 :-

6. Perused the record. This is a suit for mandatory and permanent injunction. It is the contention of the defendants that, for the reasons stated in the present application, they could not file their written statement within the prescribed period. Defendant No.1 has filed an affidavit in support of the application along with the written statement. On perusal of the application and the affidavit, it appears that the delay is neither deliberate nor intentional. It is well settled that procedural law is a handmaid of justice. The rights of the parties involved in the subject matter. In the interest of justice and to afford a fair opportunity to the defendants to contest the matter, it is necessary to allow the application. In such circumstances, the instant application needs to be allowed. Hence, I pass the following order :

Order

1. The application is allowed.
2. No written statement order dated 08/08/2025 passed against defendants is hereby set aside and they are permitted to proceed with the suit by filing written statement and say to Exh.5.

(Dictated and pronounced in open Court.)

Date : 21/02/2026.
Place : Palghar

(D. D. Suryawanshi)
Jt. Civil Judge Senior Division,
Palghar.