



ORDER BELOW EXH.30
(Dated : 12/09/2025)

The defendant has filed the present application seeking condonation of delay in filing their Written Statement and for setting aside the “No W.S.” order passed against them.

2] It is contended that the defendant had earlier filed an application under Order VII Rule 11 of the C.P.C., which came to be rejected by this Court. Against that order, the defendant preferred Revision Application No.24/2024, which is pending for hearing. However, as the matter was fixed for filing of Written Statement. The defendants now express readiness and willingness to file their Written Statement on record. They submit that they have a good case on merits and if the matter is decided without their defence, irreparable loss would be caused to them. Hence, prayed for allowing the application.

3] Ld. advocate for the plaintiff contested the application by filing say and contended that sufficient opportunities were already granted to the defendants. Despite that, they deliberately failed to file their Written Statement within the prescribed period, only with a view to delay the proceedings. The plaintiff therefore prayed for rejection of the application with costs.

4] Heard both parties. Perused record of the case. Suit is filed for partition and possession. It is not in dispute that the defendant had filed

an application under Order VII Rule 11 of the C.P.C., which came to be rejected by this Court, and the Revision Application No.24/2024 also came to be dismissed by the Hon'ble High Court. The defendant failed to file the Written Statement within the statutory period, leading to the passing of "No W.S." order. At the same time, it is a settled principle of law that adjudication on merits after considering defence of both parties is always preferable, and that the right to defend should not be shut out except for strong and exceptional reasons. In this circumstance in order to decide the present suit on merit and considering the nature of dispute, it is necessary to set aside the delay of one year for filing written statement and to set aside No W.S. order. Considering say filed there is delay caused and the appropriate reason is mentioned for the same. Therefore, the application deserves to be allowed. Hence, following order is passed.

ORDER

1. The application is allowed subject to costs of Rs.500/-.
2. Delay is hereby condoned and No W.S. order passed against defendant is hereby set aside.
3. The written statement of the defendant be taken on record on payment of costs.
4. Defendant to comply order till next date, if failed to comply application automatically vacated.

Date-12/09/2025

(**Shailesh R. Satbhai**)
Civil Judge Junior Division, Seloo.

CERTIFICATE

I affirm that the contents of this P.D.F. file is same, word to word as per the original.

(R. M. Khan)
Stenographer (Grade-III)