

Order below Exhibit No.26

This is an application filed by defendant nos.1(B), 2, 2(C), 7(A) for setting aside no written statement order passed below Exhibit No.01 Dated 26.03.2025 and permission to file written statement on record. He also prayed for condone the delay caused to file written statement.

02] In the present application, defendant contended that in view of order dated 07.10.2024, defendants could not file written statement together due to some unavoidable circumstances. So also on 26.03.2025 defendant could not attend the Court and file written statement. Therefore, on the same date no written statement order is passed below Exhibit No.01.

03] The Counsel for plaintiff filed his reply and submitted that the defendant did not appear intentionally. There is no sufficient cause for non-appearance on the given dates. In spite of giving sufficient opportunity defendant intentionally avoided to appear and submit his written statement. Thus, he prayed to reject the application and alternatively prayed for imposing heavy costs if the application allowed.

04] Heard both sides. The Counsel for defendants submitted that the reason mentioned in the application is genuine. He further submitted that he has a good case on merit. He is ready to proceed the case day to day. He prayed to allow him to submit his written statement by setting-aside no written statement order.

05] On perusal of entire record, it is apparently seen that the defendants have filed his written statement along with this application. It appears that he really wants to proceed with the case.

06] On careful perusal of the entire record, it appears that the suit

instituted for the partition and separate possession. The defendant have also right and interest in the suit property. Without giving proper opportunity being heard both parties, the suit can not be determined.

07] No prejudice would be caused to the plaintiff if the application allowed. However, for unnecessary delay for filing of W.S. and to prolong the case, imposing costs upon applicants would be just compensate to the plaintiff. Considering these facts, it would be just and proper to grant fair opportunity to applicants to bring real fact on record by filing his written statement by imposing costs upon him. Moreover, it would be helpful to the court to reach into the root of the case and for proper adjudication of the case, application needs to be allowed. Thus, I pass following order ;

ORDER

- 1] The application is allowed subject to costs of Rs. 1,000/- payable to the plaintiff on or before next date.
- 2] Written statement filled by defendants be read and recorded after payment of costs.
- 3] No cross order passed on 26.03.2025 is hereby set-aside.
- 4] Both parties are directed to expediate the case.

Place – Seloo
Date – 10.06.2025

(S.R.Satbhai)
Civil Judge Jr. Dn., Seloo.