

**ORDER BELOW EXH.42 IN R.C.S. NO.218/2019**

(CNR No. MHWS02001086-2019)

Rameshwar Hirawe Vs. Prabhakar Hirawe (Dead) Thr. his L.Rs. & Ors.

Read the application and say. Perused the record.

2] Through this application defendant Nos.4 to 6 and 8 have submitted that after receipt of summons of present suit they have appeared in the matter. However, due to Pandemic of COVID-19 the Office functioning was curtail hence they could not collect relevant documents during that period. They have further contended that due to the ill-health of defendant No.8 they were busy in his medical treatment. Therefore, they could not appear before the Court and filed their written statement. However, the Court had passed no written statement order against them. So also, as they were absent no cross examination order was passed against them on 07/11/2024. It is their specific contention that due to the above mentioned reasons they could not attend the Court. However, now they have filed their written statement on record. Therefore, an opportunity to cross examine the witnesses of the plaintiff needs to be given to them or great prejudice will be caused to them. Hence, they have prayed for grant of application.

3] The plaintiff on the other hand vide his say strongly opposed the application and submitted that the contents in the application are false and concocted and not admitted to him. He has further submitted that heavy cost may be imposed while deciding the application.

4] I have perused the record. It is seen that when the matter was at the stage of evidence of the plaintiff the defendants moved application for setting aside no written statement order and same was allowed subject to costs. It is pertinent to note that present suit is for declaration, partition and separate possession. Therefore, it would be judicious to decide the matter on merit by giving equal opportunity to both the parties. As stated above in view of order passed below application Exh.40 defendant Nos.4 to 6 and 8 have been already filed their written statement on record and thereby contested the matter. Therefore, in such circumstances considering the nature of the matter an opportunity can be given to the defendants to cross examine plaintiff's witnesses. Hence, in view of above discussion, I proceed to pass the following order -

ORDER

- 1] Application Exh.42 is allowed, subject to cost of Rs.1,000/-.
- 2] Defendant Nos.4 to 6 and 8 shall cross examine the plaintiff and his witness on next date positively.
- 3] Parties to remain present before the Court on dated 27/06/2025.

Washim.
Date:- 12/06/2025.

(**Smt. P V. Rane**)
Civil Judge (Sr. Div.), Washim.

CERTIFICATE

I affirm that the contents of this PDF file judgment/order are same word to word, as per original judgment/order.

- 1) Name of Stenographer :- S. P. Kale (Stenographer G-III)
- 2) Name of Court :- Civil Judge (S.D.), Washim.
- 3) Date :- 12/06/2025
- 4) Order signed by the
presiding officer on :- 12/06/2025
- 5) Order uploaded on :- 13/06/2025