

ORDER PASSED BELOW EXH. 13

The present application is filed seeking setting aside of the “no written statement” order and the “proceed without evidence” order passed against defendant No. 1.

2. Perused the application and say filed. Heard both the parties.

3. The suit is filed for declaration of ownership and permanent injunction. It appears from the record that the suit was proceeded without written statement against defendant No.1 in March 2024. Thereafter, the plaintiff filed his evidence and the matter was posted for arguments.

4. In the present suit, the plaintiff is seeking declaration of ownership rights against the defendants. There is a possibility that defendant No. 1 may have some interest in the suit property. In such circumstances, it is desirable that the matter be adjudicated on merits. Adjudication on merits would assist the Court in effectively deciding the controversy between the parties. Further, if the written statement of defendant No. 1 is taken on record, no serious prejudice would be caused to the plaintiff. Hence, it is necessary to set aside the earlier orders and permit defendant No. 1 to file his written statement.

5. However, it is important to note that defendant No. 1 was served in January 2024, and there is a delay of more than two years in filing the present application. The defendant was aware of the proceedings. In the application, no sufficient or satisfactory cause has been shown for such delay. The ground taken that the documents were not available does not appear to be justified in view of the conduct of the defendant. Therefore, the delay deserves to be compensated by imposing costs.

Hence, the following order:

ORDER

1. The orders of “no written statement” dated 16/03/2024 and “proceed without evidence” dated 04/12/2025 passed against defendant No. 1 are hereby set aside, subject to payment of costs of ₹1,500/- to the plaintiff.
2. The written statement of defendant No. 1 shall be taken on record upon payment of costs.

(Dictated and pronounced in open court)

Date: 23/04/2026
Place: Mahagaon

(Sahil R. Jain)
Civil Judge (Junior Division),
Mahagaon, Yavatmal.