

ORDER BELOW EXH. 13

This is an application moved by the defendant no 6 to 8 for condonation of delay for filing their written statements.

2] It is contention of the defendants that defendant no 6 to 8 that, due to unavailability of important document defendants could not file their written statement within limitation. The delay caused was not intentional but due to above reason. Hence prayed for condonation of delay of 47 days and permission for filing their written statement.

3] Per contra the plaintiffs submitted that, suit summons served to defendant No. 6 and 7 on 20.02.2025 and to the defendant No. 8 on 13.02.2025. Thereafter they appeared through their counsel on 01.03.2025 and filed their V. P. on 06.05.2025. However, failed to file their written statement within 90 days. They also submitted that defendants with view to cause delay have deliberately not filed their written statement within time. Reason given by the defendants are not true. Hence, prayed for rejection of application with heavy costs on the defendants.

4] On perusal of record it depicts that the plaintiffs have filed present suit for partition, separate possession and declaration. On 20/02/2025 suit summons served on defendant no 6 and 7 and to the defendant No. 8 on 13.02.2025. But they failed to file their written statement within limitation as prescribed in Order VIII Rule 1 of Code of Civil Procedure. Now defendants moved this application after lapse of more than 4 months from date of service of

summons by mentioning reason of unavailability of documents. The above reasons given by defendants no 6 to 8 though not sufficient but the defendants have right to adduce their evidence. The application under consideration is supported by an affidavit. There is no reason to disbelieve the ground put up in the application. This application moved by the defendants after laps of more than 4 months. Delay is caused in the matter due to conduct of the defendants.

5) The suit is for partition, separat possession and declaration. The valuable rights of the parties are involved in the suit. In view of principle of natural justice, the defendants have required to be given an opportunity to contest instant suit. The procedure bottle necks should not be allowed to come in the way of substantial justice. As far as delay caused for filing written statement is concerned the plaintiffs can be compensated.

Hence following order:

ORDER

1. The application (Exh.13) is allowed with cost of Rs. 500/- on defendants no. 6 to 8.
2. Payment of cost is condition precedent for condonation of delay.

Date :- 30/06/2025
Place:- Digras

(Smt. M. B. Sakhare)
Jt. Civil Judge Jr. Div, Digras

CERTIFICATE

I affirm that the contents of this PDF file are same as per original.

Name of Stenographer	S.B. Chilkewar
Name of the Court	Smt. M. B. Sakhare J.M.F.C. (Court No. 2), Digras.
Date of decision	30.06.2025
Order Signed by P.O. on	30.06.2025
Order uploaded on	01.07.2025