

Order Below Exh. 14
(Dated 20-10-2023)

The defendant filed present application and prayed for allow him to file his written statement. It is contended that he has appeared through his advocate but due to ill health and collect certain documents relating to present suit he could not attend the court and failed to provide necessary information to his learned advocate for filing his written statement. Therefore, he could not file his written statement within statutory limit.

2. The learned Advocate for plaintiff filed her say on present application and submitted that sufficient time and opportunity have been given to the defendant to file his written statement but he failed to file the same within stipulated period. Further, defendant has not given specific reason of delay and even not filed medical certificate on record. Therefore, he prayed that present application may kindly be rejected.

3. No doubt written statement or say has to be filed within statutory limit providing in the Code of Civil Procedure. But in the present matter defendant specifically stated that due to ill health and collecting certain documents relating to present suit he failed to give necessary information and documents to his learned advocate for filing written statement. Therefore, he could not attend the court and failed to file his written statement within statutory limit.

4. Reasons mentioned in the application are valid and genuine which can be taken in to consideration. Therefore, leniency should be shown while deciding the present application.

5. Admittedly, there is a delay for filing this application. However, considering the nature of application, the opportunity should be given to the defendant for contesting the present suit. Though defendant not filed any documentary evidence which shows that he could not attend the court and failed to file his written statement within statutory limit. Considering the grounds mentioned in the present application. It is just, proper and reasonable to decide the suit on merit. The famous maxim i.e. “*Audi Alteram Partem*” means *Hear the other side. Both sides should be heard before decision is arrived at.* Considering the ambit of the maxim *supra*. Present application deserved to be allowed. Therefore, in the interest of justice and fair opportunity to condone the delay for filing his written statement. Accordingly, I pass the following order.

ORDER

- 1] Application is allowed subject to cost of Rs.200/- be paid to the plaintiff.
- 2] The “*No written statement order*” passed at Exh. 1 on 11.04.2023 is hereby set-aside and delay occurred to file written statement within statutory limit is hereby condoned.
- 3] Defendant is permitted to file his written statement.
- 4] Defendant is directed to pay the cost *supra* on or before next date without fail.

Date : 20.10.2023

(Dr. Vikram A. Avhad)
Civil Judge Jr. Dn., Sadak Arjuni.