

CNR NO. : MHSCA2-001598-2024

IN THE COURT OF SMALL CAUSES MUMBAI

ORDER BELOW EXHIBIT 31

IN

T.E.&R. SUIT NO.83 OF 2024

Mafatlal Industries Limited

... Plaintiff

Versus

1) Smt. Indu Siddhartha Sen & Ors.

... Defendants

Coram : R. M. Tuwar

Judge, C.R. No.10

I/c. Judge, C.R. No.13

Date : 30.01.2025

ORDER :

Defendants No.1 and 2 have taken out present application for condoning the delay which is caused to them for filing written statement on record. It is their contention that the suit summons was served against them on 14.09.2024. Defendant No.1 is 86 years old and residing at Delhi at the time when the suit was instituted. Due to her health issue concern and searching of relevant documents, she could not appoint advocate in time and therefore, delay is caused. Delay is not intentional. No prejudice will cause to the plaintiff, if application is allowed. On the other hand, they will suffer irreparable loss, if it is rejected.

2. Plaintiffs have filed their reply on the application itself and objected the application on the ground that delay is not properly explained and no documents annexed with the application to support their contention. Hence, prayed to reject the application.

3. Perused the application and say thereon. Heard both the sides. It is not disputed that summons is served to the defendants No.1 and 2 on 14.09.2024. As per Order 8 Rule 1 of the Code of Civil Procedure, 1908 (CPC), the defendant has to file his written statement within a period of 30 days. Accordingly, defendants No.1 and 2 have to file their written statement on or before 14.10.2024. The present application along with written statement has been filed on 30.01.2025. It is seen that the delay of near about three and half months has been caused to file written statement. The proviso provided to Rule 1 of Order 8 of the Code of Civil Procedure, 1908 says that if the defendant failed to file written statement within a period of 30 days, he shall be allowed to file the same within the period of 90 days. In the case on hand, the period of 90 days is over on 14.12.2024. After the period of 90 days, the application is filed after near about one and half months. The delay is satisfactorily explained by the defendants No.1 and 2. The plaintiffs have filed present suit for eviction and for other reliefs. Considering the nature of suit and reliefs claimed by the plaintiffs, written statement of defendants No.1 and 2 will be helpful for full and final adjudication of the matter. No prejudice will be caused to the plaintiffs, if application is allowed. On the other hand, if it is rejected grave, prejudice will cause to the defendants No.1 and 2. Delay can be compensated by imposing costs on the defendants No.1 and 2. Hence, the application deserves to be allowed. Hence, the following order.

:: ORDER ::

1. Application below Exhibit 31 filed by defendants No.1 and 2 is allowed subject to cost of Rs.1000/- (Rupees One Thousand Only) to be paid to the library of this Court on or before next date.

2. Delay caused to the defendants No.1 and 2 in filing their written statement is hereby condoned and permission is granted to them to file written statement on record.

Mumbai
Date : 30.01.2025

(R. M. Tuwar)
I/c. Judge, C. R. No.13