

Spl.C.S. No. 01/2019
Shashikala & ors. Vs.
Babaji & ors.
Order below Exh. 24

ORDER BELOW APPLICATION EXH. 24
MHAH140000262019

Defendant No. 1 to 7 filed this application for condonation of delay and for setting aside 'no written statement' order.

2. It is contended by these defendants that the plaintiffs have filed this suit for specific performance of contract. These defendants are resident of village Vankute, Tal. Parner, Dist. Ahmednagar and they reside near the bank of Mula Dam. They travel by boat for crossing the Dam. On previous date due to heavy storm the boat was sunk in Mula Dam and therefore they could not appear before the court and file their written statement. There is delay of 38 days in filing their written statement. They prayed for condonation of delay and for setting aside 'no written statement' order.

3. The plaintiffs opposed the application on the ground that these defendants have deliberately caused delay in filing their written statement. The plaintiffs denied that the defendants reside near the bank of Mula Dam. Lastly, they prayed for rejecting the application and in the alternative they prayed for imposing cost of Rs. 1000/-.

4. Both the learned counsel are absent when called out. Hence, the application is being decided on merit.

5. The plaintiffs have filed this suit for specific performance of contract and for perpetual injunction. Defendant No. 1 to 7 failed to file their written statement within prescribed period of limitation. It appears that there is delay of 38 days in filing the written statement. The ground for delay is satisfactory. Considering the ground the delay of 38 days caused in filing the written statement of defendant No. 1 to 7 may be condoned. Defendant No. 1 to 7 have also prayed for setting aside 'no written statement' order. On perusing the record it seems that no such order is yet passed against these defendants. Therefore considering these aspects I pass the following order -

-: ORDER :-

- 1 The application is partly allowed subject to cost of Rs. 300/- be paid to the plaintiffs till next date.
2. The delay of 38 days caused in filing the written statement of defendant No. 1 to 7 is hereby condoned.

Date : 09.09.2021

(Smt. S. D. Soni)
Jt. Civil Judge, S.D.
Newasa