

MHAH180015942015



R.C.S.No. 490/2015

Popat Mhase

Vs.

Sandip Mhase & Ors.

ORDER PASSED BELOW EXHIBIT-38

This is an application filed by defendant no.15 and 16 for condone the delay caused to file written statement within the statutory period.

2. Defendant no. 15 and 16 submitted that, they could not file written statement within the prescribed statutory period due unavailability of certain documents. Hence, they prayed to condone the delay caused to file the written statement within statutory period.

3. Learned advocate for the plaintiff filed his reply on the back leaf of the application and prayed to reject it.

4. I have heard both sides and perused the record.

5. The defendants should have an opportunity to defend the suit. It is always better to decide the suit on merit rather than to proceed without hearing the other side. Therefore, in order to follow the principle of *audi alteram partem*, the delay caused by the defendants to file the written statement within the statutory period needed to be condoned. However, due to the delay caused by defendant no.15 and 16, the plaintiff is entitled to get costs at the hands of defendant no.15 and 16. Hence, I pass the following order.

O R D E R

1. The application is allowed.
2. The delay caused to file written statement of defendant no. 15 and 16 is hereby condoned subject to the payment of costs of Rs.1,000/- to be paid by defendant no. 15 and 16 to the plaintiff by depositing the payment of costs in the Court.
3. The Written statement which is already placed on record, be read and recorded after payment of costs as aforesaid.

Date: 02/08/2024

(Mayursingh D. Gautam)
2nd Jt. Civil Judge (J.D),
Rahuri