

ORDER BELOW EXH. 17

(Passed on 03rd day of December, 2018)

1] Defendant No. 8 has filed present application for condonation of delay and granting permission to file the written statement and reply to the temporary injunction application filed by plaintiff.

2] Heard both sides. It is contended on behalf of defendant no. 8 that he received the suit summons on 25.4.2018 at about 11.00 to 11.30 a.m. He was misconceived by the Bailiff that his summons would not reach the court and he would get further intimation. Therefore, he did not take any further steps in the matter. Therefore, under the said impression there was delay of 45 days in appearing the court. There is no gross negligence on his part. Accordingly, he prayed for allowing the present application.

3] It has been contended on behalf of plaintiff that defendant no. 8 has not filed his say in time. Such type of application are filed only for prolonging the matter. Hence, he prayed for rejecting the present application with costs.

4] Perused the record. It is to be borne in mind that, once a party receives summons, such party is under duty to appear before the court. If there are any unavoidable circumstance which makes it impossible for the party to appear before the court even after receipt of summons he is under duty to appear at least on next date. In the case in hand the suit summons were served upon plaintiff on 25.4.2018 vide Exh.10. Therefore, if he was having any unavoidable reason for non appearing before the court he should have remained present on next dates. But defendant appeared on 7.9.2018 vide Exh.15. Therefore, the reason forwarded by defendant no. 8 cannot be held as justifiable. However, it is also to be borne in mind that the party contesting the suit should be given an fair opportunity for putting its case. Further, for complete adjudication of the suit and to avoid any

complicity of proceeding, in the interest of justice the present application needs to be allowed. Accordingly, I proceed to pass the following order -

ORDER

Defendant no. 8 is hereby permitted to file its written statement upon payment of costs of Rs.300/- till next date, failing which matter will proceed without its written statement.

Date : 03.12.2018

(K.A. Nahar)
Civil Judge (Jr.Dn.)
Dhamangaon Rly.