

MHAU070002842013



RCS No. 49/2013
Shamima Kalim
Vs
Mohammad Nasiroddin.

ORDER BELOW EXH.101

The present application is filed by defendant no. 2 to condone the delay caused in filing of written statement of defendant no. 2. The present application is filed on 03.03.2023. But, since then plaintiff has failed to filed his say over the present application. Therefore, present application be proceeded without say of plaintiff.

2. It is the contention of defendant no. 2 that she is pardanashin lady and widow of deceased defendant no. 1 and mother of defendant no. 1-a to 1-f. She is old and due to her old age she is suffering from various diseases. So also due to death of her husband she is suffering economical crisis. Due to all these circumstances she could not contacted her advocate and do not know about the filing of written statement. She further contended that no order of suit to be proceeded without Written Statement of defendant no. 2 is passed against her. Hence, she prayed to allow the present application and to condone the delay.

3. Heard Ld. Adv. Shri. Rajput for defendant no. 2. He argued that since the defendant no. 2 is pardanashin lady suffering from various diseases and going through financial crisis, she could not filed her Written Statement within time. He further argued that the present suit is not proceeded without Written Statement of defendant no. 2. No such order is passed. She is old lady having various problems as stated in the application. If delay is condoned

no prejudice will cause to the plaintiff. On the other hand if the application is rejected then it will certainly cause injustice to defendant no. 2. He further argued that if the present application is allowed then it will be helpful for the present suit to proceed and to decide on merits. Hence, he prayed to allow present application.

4. Perused the documents on record. The present suit is more than 12 years old. It is seen from the record that defendant nos. 1 and 2 appeared in present suit by filing vakalatnama on 18.06.2013 at Exh. 32. It is also seen that their application to file Written Statement and Exh. 40 dated 11.07.2013 and Exh. 48 dated 10.09.2013 came to be allowed. It is also seen from the record that they have filed application to condone the delay at Exh. 50 which was not pressed due to reason of original defendant is expired. It is again seen from the perusal of record that defendant no. 2 again filed vakalatnama at Exh. 86 on 28.12.2015. Therefore, all these facts shows that defendant no. 2 has ample knowledge and opportunity to file her Written Statement. The present application is filed after the delay of almost 10 years.

5. The present application has not been supported by any document which shows the seriousness of the diseases caused to the defendant no. 2. On contrary, nothing is on record to show that she is suffering from blood pressure, sugar or any other disease. No plausible explanation is given by defendant no. 2 to condone the delay at such belated stage. Mere the ground of pardanashin lady is not sufficient to condone the delay. On contrary, as stated above it is seen that she has ample opportunity to filed her Written Statement. So also, even though no Written Statement order is not passed against defendant no. 2, the suit is presumed to be

proceeded without Written Statement of defendant no. 2 after lapse of 90 days from the date of service of summons. It is seen from the record that defendant no. 2 is appeared in present suit on 18.06.2013 and she was served with public notice. Therefore, it is clearly seen that she must have filed her Written Statement within 90 days from the date of her appearance. But, she failed to do so. As stated above no proper and reasonable explanation is given by defendant no. 2 to allow the present application. Therefore, in absence of any reasonable cause, the application deserves to be rejected. Hence, the following order-

ORDER

Application is rejected.

Date: 01.10.2025

(A. A. Kalamkar)
3rd Jt. Civil Judge (J.D.),
Gangapur.

CERTIFICATE

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original Order.

Name of the Stenographer : R. S. Bhange
Court : Shri. A. A. Kalamkar,
3rd Jt. Civil Judge J.D., &
J.M.F.C. Gangapur.
Date of order : 01.10.2025
Order signed by the presiding : 01.10.2025
officer on
Order uploaded on : 01.10.2025