

MHSCA2-000376-2018

IN THE COURT OF SMALL CAUSES AT MUMBAI

**ORDER BELOW EXHIBIT NO. 1
IN
MARJI APPLICATION NO. 58 OF 2018
IN
ORDER DATED 22/11/2017 BELOW EXH.48
IN
R.A.E. SUIT NO.835/1466 OF 2008**

Mrs. Cheryl Ramesh Delvi,
Aged about 50 yrs., Occu. :- Not known
Hindu, Indian Inhabitant, Residing at
Pratipada Building, Flat No.4, 1st Flr.,
F.P. No.1157, Suryavanshi Kshatriya
Sabhagruha Marg, Dadar, Mumbai 400 028.

**..... Applicant
(Org. Defendant No.1)**

Versus

1. Mrs. Ujjwala Dushyant Mahale
Aged 46 yrs., Occu. :- Housewife
Hindu, Indian Inhabitant, residing at
3, Pitruhhaya, Gr. Floor, Vajreshwari
Wadi, Veer Savarkar Marg, Dadar,
Mumbai – 400 028.

2. Mrs. Kashmira Vishal Sane
Aged 26 yrs., Occu. :- Service
Vardhan Apartment, Manvel Pada,
Virar (East), 401 305.

**..... Respondent No.1 & 2
(Org. Plaintiffs No.1 & 2)**

3. Mr. Rajan Ramakant Patil
Age 50 yrs., Occu. : Business
Hindu, Indian Inhabitant, residing at
954/AB, Suryavanshi Kshatriya
Sabhagruha Marg, Dadar, Mumbai 400 028

4. Mrs. Neelima Suhas Patil,
Aged 52 yrs., Occu. :- Housewife,
Hindu, Indian Inhabitant, presently
residing at 11, Pitruhhaya, 3rd Floor,
Vajreshwari Wadi, Veer Savarkar
Marg, Dadar (E), Mumbai – 400 028

..... Respondents 3 & 4
(Org. Defendants 2 & 3)

Miss. N. N. Thakkar, Ld. Advocate for the Applicant.

Mr. Ashutosh Khandeparkar, Ld. Advocate for the Respondents.

**Coram :- Mr. A.A. Dhumne,
Judge, C.R.No.19**

Date :- 20/02/2018

ORAL JUDGMENT :

This application is taken out by applicant/original defendant No.1 in R.A.E. Suit No.835/1466 of 2008 for condonation of delay of 6 days for filing application under Order XXI Rule 99 of the Code of Civil Procedure.

2. The plaintiff by reply thereon strongly opposed the application.

3. Heard Ld. Counsels appeared for both sides.

4. Submission is made on behalf of the applicant/original defendant No.1 that, the applicant has filed Review Petition (L) No.3644 of 2017 for recalling of the Order dated 22/11/2017 passed on Exh. 48 in R.A.E. Suit No.835/1466 of 2008. The review application is filed on 29/12/2017 beyond the period of 30 days from the date of the Order dated 22/11/2017. According to her, there is delay of 6 days only for filing review application. According to her, when the Order was passed by the Court below Exh. 48, the present applicant being a Christian was very

much busy in celebrating Christmas festival, therefore could not filed the application within time. So, she prayed for condonation of delay.

5. As against this, it is submitted on behalf of the plaintiff that, this plaintiff has strong objection, but submitted that the application may be allowed without prejudice and right of the contention made by the plaintiff by imposing costs.

6. Upon hearing Ld. Counsel of both sides, I have gone through the record. Admittedly, the plaintiffs application Exh. 48 regarding the production of documents and permitted to lead oral evidence in continuation of her previous evidence affidavit filed at Exh. 27 was allowed by Order dated 22/11/2017. For recalling of said Order, applicant has filed Review Petition on 29/12/2017. In this way, there appears to be delay of 6 days. Considering the fact that, the applicant being a Christian was busy in Christmas festival at the relevant time and could not filed Review application within time. So, I find there is sufficient cause for condonation of delay. In this way, I find merit in the application and therefore, proceed to pass the following Order.

: ORDER :

Application (Exh.1) is allowed.

Delay of six days is hereby condoned provided that applicant shall pay the costs of Rs.500/- to the plaintiff within 15 days of this Order.

[A.A. Dhumne]
Judge, C.R.No.19*

Order Dictated on	:- 20/02/2018
Order Transcribed on	:- 28/02/2018
Order Checked & Signed on	:- 28/02/2018