

MHCO120000842021



**THE HON'BLE JUDGE, CO OPERATIVE COURT NO. 2  
PUNE.**

**(PRESIDED OVER BY Smt. V. A. MAKANDAR)**

**Dispute No:- 74/2021**

**Shri. Suntosh Goel**

**..... Disputant**

**V/s**

**Suyojana Cooperative**

**Housing Society Ltd.**

**.....Opponent**

**ORDER AT EXH. 19**

**(Passed on 18/12/2025)**

1. The present application is filed by the opponent society seeking condonation of the delay of 1 year, 9 months, and 14 days in filing the Written Statement.
2. He submitted that, this Court had already passed an order of "*No Written Statement*" on 18/07/2023 due to the failure of the opponent to file the Written Statement within the prescribed period. He further submitted that, Secretary, Mrs. Roshan was suffering from a bone-related medical disorder and was undergoing treatment, due to which she was unable to attend court proceedings or provide necessary documents and instructions to the advocate. It is also submitted that, she was advised to undergo surgery in the month of March and that thereafter a resolution was passed authorising the Chairman to represent the society. If delay is condoned, no prejudice

whatsoever would be caused to the disputant. On the contrary, refusing to condone the delay would cause serious prejudice to these opponents. Hence, he requested to allow the application.

3. The Ld. Advocate for the disputant filed a say at Exh. 23 and strongly oppose the same. He submitted that, the opponent has failed to disclose the exact date from which the Secretary started suffering from the said medical issue. The record reveals that summons were served upon the opponent society on 23/10/2022, and the opponent entered an appearance on 16/11/2022 and sought time to appoint an advocate. Thereafter, on multiple dates, i.e. 12/12/2022, 17/01/2023, and 14/02/2023, no application seeking extension of time to file the Written Statement was filed.

4. Moreover, the statutory period of 90 days for filing the Written Statement expired on 23/01/2023. Even after expiry of the said period, no application for extension of time was made, nor was any explanation submitted before the Court for the default. The opponent and its advocate thereafter remained absent on 21/04/2023 and 18/07/2023, without seeking adjournment. The medical document relied upon by the opponent, namely the discharge summary filed at Exhibit 22, is not an authenticated document neither to be a part of the official record of the society. Moreover, the said discharge summary pertains to a period after the expiry of the limitation prescribed for filing the written statement.

5. The delay involved is gross and inordinate, amounting to 651 days, and the conduct of the opponent demonstrates

negligence, lack of diligence, and a casual approach. Hence, he prayed to reject the application.

6. Heard both the advocates at length. Perused record. On perusal of the record, it transpires that the opponent appeared in the matter on 16/11/2022 at Exh.8 and sought time to appoint an advocate. Thereafter, the opponent failed to file the written statement, despite seeking various adjournments. Accordingly, my learned predecessor passed an order of “no written statement” on 18/07/2023. Even thereafter, the opponent remained absent before the Court.

7. On perusal of the documents placed on record by the opponent at Exh.22, it appears that the discharge summary of Mrs. Roshan Chindhy has been produced, wherein the date of admission is 30/03/2024, and the date of discharge is 03.04.2024. It is the contention of the disputant that the medical emergency occurred after the expiry of the statutory time limit for filing the written statement.

8. However, while considering the application, it is required to examine whether *sufficient cause* is made out for the delay. The expression ‘sufficient cause’ is to be construed liberally. Although it appears to be true that the medical emergency pleaded by the opponent occurred after the expiry of the prescribed period for filing the written statement, the documents on record prima facie indicate that the opponent was faced with some medical difficulties. Therefore, the same can be taken into consideration while looking as a sufficient cause.

9. It is a settled principle of law that one should not be

condemned unheard, as per the principle of *Audi Alteram Partem*'. Thus, only because of the delay for filing the written statement, the opponent shall not suffer from their right to file a written statement. It is necessary to take the liberal approach, while entertaining the application for a delay condonation for filing a written statement.

10. Opportunity is needed to be given to the opponent to file a written statement. If delay is not condoned for filing a written statement, then the opponent will be permanently precluded from raising their stands on merits. On the contrary, if the application is allowed, no harm or prejudice would be caused to the disputants. It is always desirable to decide the dispute on merit, & technicality of rules needs to be relaxed. Considering all these facts and the period prescribed for filing the written statement, I proceed to pass the following order.

### **ORDER**

1. The application is allowed.
2. The order of "No Written Statement" passed against the opponent is hereby set aside.
3. The delay caused in filing the written statement by the opponent is condoned, subject to payment of costs of ₹1,500/-. The written statement is taken on record.

**(Smt. V. A. MAKANDAR)**

**Date: 18/12/2025**

**Judge,**

**Place: Pune**

**Co-operative Court No.2, Pune**