

ORDER BELOW EXH.14
(Passed on 07.06.2019)

The present application is filed for condoning delay for filing written statement. The Ld. counsel of the defendants submitted that due to some reason they could not file written statement within statutory period. Hence, prayed to allow the application and condone the delay. On the other hand, Ld. Advocate for the plaintiff submitted that, summons is served on defendants on 28/04/2019. On 30/04/2019 defendants appeared in the present matter through their counsel. Since 07/06/2019 near about five dates defendants failed to give application for filing written statement. On 29/07/2019 they filed application for seeking adjournment for filing written statement. Ld. counsel of the plaintiff submitted that, 106 days lapsed after service of summons. The present application is contrary to Order 8 rule 9 of the Code of Civil Procedure. Applicants failed to explain delay. Reason for delay is not properly explained. The present application is not supported by affidavit. Hence, prayed to reject the application.

The Ld. counsel of the plaintiff placed his reliance on the Judgment of Hon'ble Apex court i.e. *ATCOM Technologies Ltd. V/s Y.A.Chunawala and company and others [2019 (2)Mh.LJ.]*, wherein it was held that, defendant is obligated to present a written statement of his defence within 30 days from date of service of summons. Delay in filing written statement must satisfactorily demonstrate a valid reason for not filing written statement withing 30 days.

Perused application. Heard Ld. Advocate for both the parties at length and I have gone through the decision cited at bar. With the great respect to the observations enunciated in the aforesaid case, which are

preferably applicable to the case at hand. The reason for delay in filing present application is not properly explained by defendants. The present suit is filed for perpetual injunction. The rights of applicants is very much involved. Prima-facie it appears that issue worth trial is involved in the present suit. Therefore, I do not find it proper to close doors of Court for applicants owing to technicalities of law. But, considering delay some cost is to be impose on defendants will serve the purpose. Hence, in the light of above discussion, I proceed to pass following order :

ORDER

1. Application is hereby allowed subject to cost of Rs. 300/-.
2. Delay is hereby condoned after compliance of cost.

Dt. : 14/08/2019

(P.S.Sonkamble)
Civil Judge, Jr. Dn., Arjuni/Mor

CERTIFICATE

This is to certify that, the contents of this uploaded judgment/order are same and correct as per the original judgment/ order, signed by the Presiding Officer.

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