

MHKO050054142023



ORDER BELOW EXH.10 IN
SUMMARY CIVIL SUIT NO.117/2023
(Passed on 02. 01. 2024)

Perused the application and reply thereon. Heard learned counsel for both the sides.

2. It is well settled that *Audi Alteram partem* i.e. no one should be condemn unheard is the basic principle of the natural justice. It is significant to note that the provision of Order 37, Rule 3(1), Civil Procedure Code regarding entering the appearance by the defendant within 10 days from the date of service of summons is a rule of procedure. Therefore, substantial rights of the parties cannot be defeated by pedantic approach by observing strict adherence to the procedural aspect of law. Therefore, it is to be noted that delay in entering appearance by the defendant within the prescribed period cannot be a sole ground to reject the application when other side can be compensated for such delay. Hence, with a view, to grant an opportunity to the defendant to contest the matter on merit it will be just and reasonable to condone the delay for entering the appearance within the prescribed period of limitation. Hence, considering the reason mentioned in the application and delay caused in entering the appearance by the defendant, I pass the following order.

ORDER

- 1) Application at Exh.10 is allowed subject to costs of Rs.500/- (Rupees Five Hundred only) payable to the plaintiff.

Sd/-

Ichalkaranji

Date :- 02. 01. 2024

(H. A. Wani)

Civil Judge, Sr.Dn., Ichalkaranji