

MHKO070011922019



REGULAR CIVIL SUIT NO. 101 / 2019
(Rajendra Chougule & Ors. - Vs - Sanjay Bandgar & Ors.)
COMMON ORDER BELOW EXH. NO. 12 & 13

Vide application below Exh. 12, all defendants are requesting for condonation of delay to file written statement on record and vide application below Exh. 13 all defendants are requesting for setting aside no written statement order passed against them. Say of plaintiff to both the applications is at Exh. 15.

02. Perused both applications and say. Heard learned Advocates of both the sides. Also gone through record and proceeding.

03. Record shows that the summons were served on defendant Nos. 1 to 5 on 06.07.2019, and they appeared on 08.07.2019. Written statement ought to be filed by them on or before 90 days from the date of service of summons. Record further shows that on 17.10.2019 defendant Nos. 1 to 5 filed application for adjournment, but it was rejected and on 23.01.2020 "No WS" order was passed against them. On this backdrop, both these applications are filed on 19.08.2020.

04. According to defendant Nos. 1 to 5, some important documents necessary for their pleading were not available within time as well as due to pandemic of COVID-19, delay of 285 days was caused. *Per contra*, it is the version of plaintiffs that grounds for the delay are in general nature, and more particularly reasons for delay are not sufficiently explained. Therefore, he prayed to reject the application with cost.

05. The suit is for declaration. Valuable rights of both the parties are involved in the litigation. Both the applications are supported with affidavit and application at Exh. 13 is alongwith Written Statement.

06. Written statement was required to be filed on or before 04.10.2019, whereas written statement is filed with these applications on 19/08/2020. Thus, it is prima facie seen that there is delay of about 10 months in filing in written statement. However, as per **Suo Motu Writ Petition (Civil) No.3/2020 In Re: Cognizance for Extension of Limitation** of Hon'ble Apex Court, period from 15/03/2020 till 28/02/2022 is excluded. Thus, it is clear that there is delay of 05 months in filing written statement.

07. Considering the questions involved in the matter, will be lawful and justified if there is fair contest of the matter. It will be in larger interest of both the sides, if the decision of suit is based on pleadings of both the sides and not merely on documentary evidence or merits of parties. Accordingly, I am of the view that both the applications deserve to be allowed, subject to saddling cost for the delay. Thus, following order.

ORDER

1. Both the applications are allowed subject to cost of Rs.500/- (Rupees Five Hundred Only) to be payable to plaintiffs as condition precedent.
2. This original order be kept below Exh. 13.

Sd/-

(**Anand D. Karbhajan**)

Jt. Civil Judge (Junior Division),
Jaysingpur, Tq. Shirol, Dist. Kolhapur

Dt. 08.06.2022
Jaysingpur

-: Certificate :-

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

Name of Stenographer	Miss. Pallavi P. Lagare
Name of Court	Jt. Civil Judge Junior Division & Judicial Magistrate First Class, Jaysingpur, Tal. Shirol, Dist. Kolhapur.
Date of Decision	08/06/2022
Order signed by the P.O. on	08/06/2022
Order uploaded on	09/06/2022