

MHKO090001252021



ORDER BELOW EXH. 44 IN SPL. CIVIL SUIT NO. 11/2021

1. Perused the application filed by defendant No. 3 and say of the plaintiff.
2. It is averred in the application that the written statement could not be filed within time because the necessary documents were not made available in the prescribed period. Defendant No. 3 tried to procure the documents within time, but it could not be possible and therefore, the delay was caused in filing the written statement. Similarly, it is submitted in the application that after obtaining all the necessary documents, the defendant requested the advocate to prepare the necessary written statement. However, certain time was also required in preparing the necessary written statement.
3. In substance, it is contended in the application that the delay was unintentionally caused, because of some other reasons, which were not within control of the defendant. After hearing both the sides and considering facts of the suit, I agree that the delay caused in filing the written statement was caused due to unavoidable reasons or it was beyond the control of the defendants.

4. When defendant No. 3 is not personally at fault to cause the delay and if the delay is not intentional, I find that it shall be condoned under the exceptional ground, otherwise the suit will be disposed of without merit. Disposing the suit without merit will unnecessarily create further litigations. Hence, it is always desirable to accept the written statement, if the delay is not intentional one or it is not likely to cause grave prejudice to the plaintiff.
5. I find that the plaintiff can be compensated by awarding costs. Hence, I pass the following order -

ORDER

Application Exh. 44 is allowed as follows -

1. The written statement filed along with the application is taken on record, subject to payment of costs of Rs. 200/-.
2. The costs shall be paid within 15 days from the date of this order.
3. In case of default, the application stands rejected.

Date : 27.09.2022

(G. V. Deshpande)
Civil Judge Senior Division,
Gadhinglaj