

MHKO090003622022

**ORDER BELOW EXH. 16 IN REG. CIVIL SUIT NO. 236/2022**

1. Perused the application filed by defendant Nos. 2 and 3 and say of the plaintiff. The application is filed for setting aside 'No w.s.' order. The order under challenge was passed on 08.03.2023. This application is immediately filed after one month of the order i.e. on 06.04.2023. 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. The defendants tried to procure the documents within time, but it could not be possible and therefore, the delay was caused in filing the written statement.
2. In substance, it is contended by the plaintiff that contention in the application is false and frivolous, therefore, he requested to reject the application. If the application is allowed, cost may be imposed upon the defendants.
3. 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. When the defendants are not at fault to cause the delay and if the delay is not intentional, it shall be condoned in the exceptional circumstances. Hence, the order in question is

liable to be set aside and written statement is to be taken on record, otherwise the suit will not be disposed of on merit. It will unnecessarily create further litigation. Hence, I pass the following order -

**ORDER**

Application Exh. 16 is allowed as follows -

1. The written statement filed along with the application is taken on record, subject to payment of costs of Rs. 400/-.
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 : 05.10.2023

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