


MHKO160007872021 	<u>Order below Exh.37 in R.C.S.No.107/2021</u>
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1. The defendant No.1 has filed this application for setting aside no W.S. order and for condonation of delay for filing W.S. According to defendant No.1, he is an old aged person and due to lack of important documents and information, he could not file his W.S. within time, and the delay caused. He further states that settlement negotiations were ongoing between the parties, so he unable to file his W.S. within time. The delay is un-intentional. If the delay is not condoned, he will suffer irreparable loss. Hence, he prays for condonation of delay to file W.S.

2. Plaintiff given his say below the application and submitted that the application is false and bogus. Summons was served on defendant on 24/10/2021 and defendant intentionally caused the delay to file his W.S. Plaintiff also file his evidence affidavit on 04/07/2023 and affidavit of his witness on 23/12/2024. Plaintiff also file evidence close pursis on 07/02/2025. Defendant neither given satisfactory reason for the said delay nor given any medical proof for his pleading. Hence, he prays to reject the application. Alternatively he prays that the application may be allowed by imposing cost of Rs.20,000/-.

3. After hearing both the parties and perusal of documents on record, it reveals that no W.S. order is passed against defendant No. 1 on 12/08/2024. Defendant submitted that delay of four years nine days

caused to file his W.S. and the delay is un-intentional. Plaintiff strongly opposed the application and prayed to reject the application. Plaintiff also prayed to allow the application by imposing cost of Rs.20,000/-. Defendant No.1 has not produced on record any evidence justifying the delay in filing W.S. The delay caused by defendant No.1 is huge and certainly resulted in prolonging the proceeding. Even though, there are no satisfactory reasons for said delay, it will be appropriate if the application is allowed subject to cost to compensate said delay. The W.S. of the defendant No.1 is important to decide this suit on merit. No prejudice will be caused to the plaintiff if this application is allowed. At the same time the delay caused needs to be compensated by imposing appropriate cost. Considering all the facts, this court finds to grant this application. Hence, following order -

ORDER

1. Application Exh.37 is hereby allowed.
2. No W.S. order passed against defendant No.1 is hereby set-aside and the delay caused for filing W.S. is hereby condoned subject to cost of Rs.2,000/- to be paid to the plaintiff till next date.
3. After payment of the cost, W.S. of defendant No.1 will be read and recorded.

Shahuwadi
Date : 11/02/2026

(P. B. Pawar)
Civil Judge, Jr. Division,
Malkapur-Shahuwadi