



ORDER BELOW EXH. 12

- 1) By virtue of this application, defendants prayed to take his written statement on record by condoning delay of 4 months 13 days.
- 2) It is submitted by defendant that, due to Covid-19, defendant was unable to file his written statement within statutory time as a result of which delay of 4 months 13 days has been caused to file written statement on record. It is further submitted that, if written statement of defendant is taken on record it will assist the court to decide the matter on merit and no harm of what so ever nature will cause to plaintiff. On the above reasons, defendant prayed to take his written statement on record.
- 3) Plaintiff has filed his say on the over-leaf of this application. Plaintiff submitted that, defendant intentionally did not filed his written statement within statutory time. Defendant has purposely caused delay in filing the written statement. On the above reason plaintiff has prayed to reject the application with heavy cost.
- 4) I have heard both the arguments and perused the application

:: 2 ::

Regular Civil Suit No.94/2020
CNR No.MHKO190003762020
Order Below Exh.12

and reply thereto as well as various orders passed in the suit. Perusal of record shows that, suit summons upon was served on 03/08/2020. Thereafter, defendant appeared on 11/08/2020. Thereafter, time was granted to defendant as and when requested by him. However, in spite of sufficient opportunities, defendant failed to file written statement within statutory limit. On Perusal of record, it transpires that there is delay of 4 months 13 days to file written statement. The defendant has sought to condone the said delay on the aforesaid reasons. The said reason are stated on oath.

5) It is worth noticing that, present suit has been filed by plaintiff claiming specific performance of an agreement against the defendant. In my opinion, even though defendant was apathetic to conduct the suit by not filing his written statement within statutory time, he deserves an opportunity to present his defense. If the defendant is permitted to file his written statement, the same will assist the court to decide the controversy between the parties on merit. Moreover, the provision of Order VIII Rule 1 of the Code of Civil Procedure is not mandatory but directory. The strict interpretation of the said provision would defeat the justice.

6) As stated above, there is a delay of 4 month and 13 days to file written statement. However, the reason cited by the defendant is bonafide. Consequently, to decide the present suit on merits and to give an opportunity to the defendant to present their case by filing

:: 3 ::

Regular Civil Suit No.94/2020
CNR No.MHKO190003762020
Order Below Exh.12

written statement, I proceed to pass following order:

ORDER

- 1] Application is allowed.
- 2] Written Statement of defendant is taken on record by condoning delay of 4 months and 13 days.
- 3] Application is disposed of accordingly.

Place : Radhanagari.
Date : 16/03/2021.

(S. K. Shaikh)
Civil Judge Junior Division,
Radhanagari.