

MHLA130003282023R.C.S No.87/2023
Shivaji Vs. Madhukar**Order Below Exh.28**

The present application is filed by defendant No. 2 and 3 for condoning delay for filing written statement. Perused the application and say. Heard.

2. Learned advocate for defendant no. 2 and 3 submitted that, due to out of station for some work, defendant 2 and 3 could not file their written statement within stipulated period. Hence, the delay in filing written statement be condoned.

3. Plaintiff filed his say and objected the application. He submitted that, necessary order be passed.

4. Perused application and say. Heard. From the documents on record, it is appeared that, defendant No.2 and 3 have out of station for some work. In support of their contention the defendant No.3 has filed his affidavit. Therefore, the reason assigned by the defendant No. 2 and 3 seems genuine and proper.

5. The present suit is filed for partition and separate possession. In the present suit, it is necessary to hear defendants in order to come to the final conclusion. An opportunity must be given to defendant No.2 and 3 to file their written statement. In order to proceed with the suit on merits the written statement of defendant No. 2 and 3 must be considered. However, considering the aforesaid circumstances, the loss caused to the plaintiff due to such delay cannot be ignored.

Hence, I pass the following order -

Order

1. The application is allowed subject to cost of Rs.500/- to be paid by defendant No. 2 and 3 to the plaintiff till next date.

Sd/-

(K.K. Waghmare)
Jt. C.J.J.D., Renapur.

Dt. 05/12/2024.