



**ORDER BELOW EXH.29**  
**(CNR NO.MHLA150006462022)**

The suit is instituted for Perpetual Injunction against the defendant. Defendant No.1 and 6 have served with suit summons on 05/07/2022. They have appeared in the suit on 14/07/2022. But, they failed to file their written statement within statutory period. So, this court passed No written statement order on 10/10/2022 below Exh.1 and directed to proceed with the suit without written statement of the defendant no.1 and 6. Hence, the defendant No.1 and 6 they filed the present application for con-donation of 9 days delay and also prayed to take their written statement on record.

2. It is stated in application that, They the defendant No.1 and 6 have served with suit summons on 05/07/2022. They have appeared in the suit but failed to file their written statement within statutory period. Hence, No written statement order passed against them on 10/10/2022 and suit was proceeded without the written statement of defendant No.1 and 6. They have appeared and filed an application below Exh.29 for con-donation of 9 days delay caused for filing written statement and also prayed to take written statement on record.

3. It is contended by the defendant No.1 and 6 that they could not filed their written statement within the prescribed period of limitation due to unavailability of important documents. The delay was not intentional. Therefore, they prayed for con-donation of delay caused for filing their written statement.

4. Plaintiff filed his say below Exh.29 and opposed the said application on the ground that the defendant intentionally causing delay for filing their written statement. The reason for delay is not proper. Sufficient opportunity is given to them. Hence, they prayed to



reject to this application with cost.

5. Read the application and say thereon. Heard learned advocates for both sides. It appears from record that, suit is filed for Perpetual Injunction. It also appears from record that defendant No. 1 and 6 failed to file written statement within limitation. Hence, no written statement order was passed against them. Subject matter of the suit is immovable property and valuable rights of the parties are involved in it. This application is supported with affidavit of defendant No.1 and 6. No counter affidavit of plaintiff is filed on record.

6. It appears from record that, defendant No.1 and 6 could not filed their written statement within the prescribed period of limitation due to unavailability of important documents. Hence, the reason stated by the defendant No.1 and 6 for delay is satisfactory.

7. For the conclusive decision of the suit, it is necessary to grant the opportunity to present defendant No.1 and 6 to defend the suit by filing their written statement. By granting permission for filing written statement to present defendants will not cause any kind of loss or prejudice to the plaintiff. On the other hand, it will help to the court to decide the suit on merit. So, present application deserves to be allowed. At the same time it is necessary to compensate the plaintiff for unnecessary delay. Hence, I pass following order.

**ORDER**

1. Application stands allowed subject to cost of Rs.200/-.
2. The present defendant No.1 and 6 are directed to pay the cost amount to the plaintiff on or before next date.
3. After payment of cost the written statement of defendant No.1 and 6 shall form part of record.

Date :- 13/10/2022

(M.S. Luniya)  
Jt. C.J.J.D. Chakur



**R.C.S NO.165/2022**  
Sumit VS. Bharatbai & Ors.5



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C E R T I F I C A T E

I affirm that the contents of this P. D.F. file order are same word for word as per original order.

Name of Jr. Clerk : Atul Lalasaheb More  
Court Name : M.S. Luniya, Jt.C.J.J.D.,  
Chakur.  
Order Date : 13/10/2022  
Order signed by presiding officer on : 13/10/2022  
Order uploaded on : 15/10/2022