



Order below Exh.23 in RCS No. 135/2018
(Navnath Vs.. Tukaram & Oths)
CNR No.MHLA150006662018

Read the application and say filed thereon. Heard the learned advocates for both the parties.

2. This is an application filed by defendant no.1, 3 & 4 for condonation of delay to file written statement within limitation period. According to them, plaintiff has filed present suit for partition, separate possession and perpetual injunction. Defendant nos.1, 3 & 4 could not attend the court and file their written statement within time because their internal family disputes. The act of defendants are not intentional and deliberate one. The matter is for immovable property and to meet ends of justice, they prayed to allow the application.

3. On the contrary, plaintiff opposed the application contending that the reason mentioned in the application is not proper. The application is not supported by any document. Hence the delay is deliberate and intentional. Moreover the reason is not proper. Hence plaintiff prayed for rejection of the same with heavy costs.

4. Considering the submissions made on behalf of both the parties and on perusal of the bailiff report at Exh.15 on dated 09/10/2018 it is seen that summons was served to said defendants on dated 07/10/2018, but latter on said defendants are absent in this suit till 25/03/2019. Hence, my learned predecessor passed ex-parte order below Exh.1 against said defendants on dated 04/12/2018. Defendant appeared on dated 25/03/2019. However, defendants failed to file W.S. within limitation. There is much delay in filing this application. No any certificate is filed on record. Even though to adjudicate the case on merits and to give fair and reasonable opportunity, it will be just and proper to

allow the application subject to costs. Moreover the loss caused to plaintiff may be cured by imposing proper costs. Hence, the following order.

Order

1. Application is allowed subject to cost of Rs.500/- (Rs. Five hundred only) to be paid to plaintiff.
2. The delay is hereby condoned after payment of cost.

Date : 05/02/2020

(A.S. Alewar)
Civil Judge J. D. Chakur