

ORDER BELOW EXH. 116

1. The present application is filed by original defendant No.6 (Counter Plaintiff Deft.No.12) for condonation of delay caused to file his W.S. and to accept W.S.

2. It is stated by the present defendant that, during pendency of the suit defendant No.12 suffered with illness. Due to which he could not file his written statement within the statutory period of 90 days from the date of service of summons on him. On these grounds defendant prayed to accept his written statement which is filed after the statutory period.

3. The learned advocate for the plaintiff by filing say submitted that, written statement may be accepted with heavy cost imposed on defendant.

4. Heard both sides. Perused the record. Record shows that on 18/01/2023 the present defendant has been served with summons. He appeared through advocate on 06/02/2023. The present application has been filed on

29/04/2023. It means that, the present defendant filed the application along with his written statement after the statutory period of 90 days. Further it seems from the record that, no further order has been passed against the present defendant. The present suit is filed by the plaintiff for partition and separate possession and injunction. Further valuable rights of the present defendant has been vested in the suit properties. Hence to decide the suit on merits and to avoid the multiplicity of the proceeding it is necessary to give one chance to the present defendant to put his defense. So After considering the nature of the suit and submissions made on behalf of the defendant and in order to decide the present suit on merit it is necessary to give one opportunity to the present defendant to put his defense. Hence, accordingly I pass the following order.

-: ORDER :-

1. Application is allowed.
2. The written statement of the present defendant is accepted subject to cost of Rs.500/- to be paid to the other side.

(Dictated and pronounced in open Court.)

Place :- Deoni.
Date :- 06/06/2023.

(A. P. Khollam)
Civil Judge, J.D. Deoni.