

MHNG120011002021



Regular Civil Suit No59/2021
Mrs.Nirmala vs. Mrs.Durga

ORDER BELOW EXH.13

(Passed on 30/06/2022)

This is an application filed by the defendant for grant of permission to file Written Statement on record. It is the contention of defendant that though the Written Statement and reply on the application for grant of temporary injunction was ready, due to technical difficulty her counsel could not take out the print out and could not file the same before the Court.

2. The plaintiff filed her reply to instant application and thereby prayed for rejection of application mainly on the ground that a period of 90 days has already been lapsed.

3. Heard both the sides. Perused record.

4. It is evident from record that the defendant is served with summons on 11.03.2022. Thus it can very well be gathered that a stipulated period of 90 days for filing the Written Statement has already been lapsed. Therefore, the only question falls for consideration is whether in view of the grounds mentioned by defendant, she is entitled to file written statement. It is the duty of defendant to show

sufficient and satisfactory reasons for non filing of written statement within stipulated period. If party satisfies the court by showing sufficient reasons, then the court can allow it to file written statement even after 90 days.

5. In the light of settled legal position, the grounds submitted by defendant appears to be justified. Moreover, in present case plaintiff has not adduced her evidence till today. Under this circumstance, if defendant is permitted to contest the suit, then it will be helpful to decide the suit on merits. Moreover, it is principle of natural justice to give opportunity to defendant to contest the suit. No prejudice would cause to plaintiff if the Written Statement of defendant is taken on record. Hence, considering the circumstances and nature of the suit, I am of the opinion that defendant should be permitted to contest the suit by filing written statement.

6. Here ratio laid down in the case of *Municipal Council, Hinganghat ..vs.. Sudhir Kumar Sahani 2010(3) Mh.L.J. 948* is required to be discussed, wherein the Hon'ble Bombay High Court held that - *"If defendant show sufficient grounds and reasons on record, then though the application for filing written statement filed belatedly and casually, deserves to be allowed"*. At the same time, a reasonable costs needs to be imposed upon the defendant to meet the ends of justice.

7. Thus in view of the discussions noted above, I am of considered view that instant application needs to be allowed. In the result, I proceed to pass the following order-

ORDER

1. Application Exh.13 is hereby allowed, subject to payment of costs Rs.200/- to be paid to plaintiff.
2. The defendant is permitted to file her Written Statement and reply to application for temporary injunction, on record, only on payment of above amount.
3. The parties are directed to expedite the matter.

Narkhed.
Date-30/06/2022.

Sd/-
(Smt.V.D.Sungare)
Civil Judge, Jr.Dn., Narkhed,
Dist.Nagpur.

Case argued on	30.06.2022
Order dictated on	30.06.2022
Transcription ready on	30.06.2022
Order checked and signed on	30.06.2022

CERTIFICATE

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

Name of Stenographer- A.Y.Kulkarni (Gr.-III)