

MHNG130007422022



Judge Code: MH02592

Reg.C.S. No. 26/2022.  
Bilkis & Ors V/s. Mumtaj &  
Ors.

**ORDER BELOW EXH.47**  
**(Passed on : 23/10/2024)**

1. Applicant/defendant Nos.1 to 4 & 5/a, 5/c, 5/d & 5/e has filed the present application for condon the delay and permission to file his written statement on record. They have filed their WS on record alongwith this application.
2. It is submitted by the Applicant/defendant Nos.1 to 4 & 5/a, 5/c, 5/d & 5/e that, initially defendant Nos.1 to 1 to 4 & 5/a, 5/c, 5/d & 5/e have filed their written statement on record on 24.01.2024, but the WS was placed beyond statutory period of 90 days and Hon'ble Court could not take on record. It is further submitted that, due to inadvertence the application to file WS could not be filed along with WS on 24.01.2024. The delay caused for filing the written statement was not intentional. No prejudice is likely to cause to the plaintiffs, if the present application of the defendants is allowed.
3. The counsel for the plaintiffs has filed his reply at Exh.48 on the application and strongly opposed the said application on the ground that, statutory period of 90 days is over. The applicants have not given any sufficient cause for delay in filing written statement. Accordingly, he prayed to reject the application with heavy cost.
4. Heard. Perused record. From the record, it is seen that plaintiffs has filed suit for possession and permanent injunction. The

defendant Nos.1 to 4 & 5/a, 5/c, 5/d & 5/e did not file their written statement on record within stipulated time. Considering the nature of the suit, in the interest of justice, defendant Nos.1 to 4 & 5/a, 5/c, 5/d & 5/e are required to be permitted to take part in proceeding by filing their written statement. Admittedly, there is delay in filing of written statement, this delay is not intentional. For adjudication of suit and settle controversy between parties on merit and to avoid multiplicity of proceeding delay required to be condoned. No prejudice will cause to the plaintiffs, if the present application is allowed. At the same time plaintiffs are also required to be compensated for delay. Hence, in result following order.

### **ORDER**

- 1.** The application at Exh.47 is allowed. Delay is condoned to file WS to defendant Nos.1 to 4 & 5/a, 5/c, 5/d & 5/e subject to cost of Rs.200/- to be paid to plaintiffs on or before next date.
- 2.** After payment of cost by defendant No.1 to 4 & 5/a, 5/c, 5/d & 5/e, their written statement will be taken on record.
- 3.** If defendant Nos.1 to 4 & 5/a, 5/c, 5/d & 5/e failed to pay the cost on or before next date, this order will be automatically revert back.  
(Pronounced in the open court).

Ramtek  
Date : 23/10/2024

( **Smt. D. S. Saindane** )  
2<sup>nd</sup> Jt. Civil Judge Junior Division,  
Ramtek.

**CERTIFICATE**

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

Name of Stenographer : A.H.Ghosekar  
Lg. Stenographer.