

**R.C.S. No. - 148/2023**

**Kashinath Sangamnere vs.**

**Namdeo Sangamnere**

**ORDER BELOW EXH.39**

This is the application filed by the defendant to condone the delay caused to file Written Statement and say on Exh. 05 and for setting aside No WS and No Say on Exh.05 order passed against him on 17.08.2023.

2. Read the application & say filed by the plaintiff. Perused the record. Heard the Ld. counsel for the defendant. It is mentioned in the application that, the defendant took a long time to get and reconcile the important documents. For the same reason they could not file a written statement within prescribed time. They prayed to file the written statement to decide the case on merits. Hence prayed to allow the application.

3. Heard the Ld. counsel for plaintiff. He submitted that application is false and frivolous. It did not contain the valid reason for inability to file a written statement within prescribed time. Defendants did not assign a valid reason for the delay caused. Hence, prayed to reject the application or in alternative allow it subject to the cost of Rs.5,000/-.

4. The reason mentioned in the application seems just and bonafide. The valuable right as to immovable property is involved in the present suit. It is always good to decide the suit on merit and after giving the opportunity to the defendant to put his statement of defence on record and to avoid the multiplicity of the proceedings.

5. Now the defendant along with the present application has placed on record his written statement to proceed with the suit. I am of the opinion that if the application is allowed then no prejudice would be caused to the plaintiff and the suit will be decided on merit. Thus, for these reasons, in view of O. VIII R. 1 of the CPC, 1908, there is a sufficient cause to condone delay caused to file WS and to take it on record. Therefore, I hold that it is just and proper to allow the application. However, for the delay cost would suffice the purpose. Hence, I pass the following order-

**ORDER**

1. The application is allowed subject to pay cost of Rs.1,000/- (One Thousand Rupees Only) to the plaintiff.
2. Delay to file Written Statement and Say on Exh.05 is condoned.
3. No written statement and say on Exh.05 order passed against Defendant would be set aside and a written statement of Defendant would be taken on record after compliance as to costs.
4. Parties to take note accordingly.

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(Sneha P. Deshpande)

Date- 20.03.2024

2nd Jt. C.J.J.D. & J.M.F.C.

Niphad.