

**Regular Civil Suit No. 88/2014
CNR:MHNS13-000792-2014**

**Order Passed Below Exh. 34
Balasaheb Vs. Rani**

Read the application and say filed by the defendant. Perused record. Heard the learned advocate Shri. U. G. Gaikwad for the plaintiff and learned advocate Shri. A. G. Lodha for the defendant.

2] This is a suit for the relief of declaration and perpetual injunction wherein application for condonation of delay caused to file written statement to the counter claim is filed. It is submitted on behalf of the plaintiff that, he received the copy of counter claim in April 2018. Afterwards there was vacation to the Court. Thereafter the plaintiff informed about the same to his advocate due to which delay of 365 days is caused to file his written statement to the counter claim on record. It is further submitted by the plaintiff that, he will suffer irreparable loss, if he is not permitted to file his written statement to the counter claim by condoning delay caused for the same. Hence, the present application.

3] By filing say, the defendant resisted the application. It is submitted on behalf of the defendant that, no reason for the delay caused is mentioned in the application. The application is false, illegal and intentionally filed at belated stage to delay the proceeding. On 23/03/2017 order was passed on written statement and counter claim of the defendant. Thereafter within 60 days, the plaintiff has not submitted his written statement to the counter claim. Total delay of 1 year and 190 days has been caused to submit written statement to the counter claim. Hence he prayed to reject the application. Contrarily, he submitted that, if the Court comes to the conclusion to allow the application, then costs of

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Rs. 5,000/- be imposed upon the plaintiff.

4] Perused the matter on record. In view of contentions of the plaintiff, there is a possibility that, he could not file his written statement to the counter claim on record within limitation. Thereby it appears that, the plaintiff had sufficient cause which prevented him from filing his written statement to the counter claim on record within stipulated time.

5] Further it is important to note that, question of landed property is involved in the present matter. However, perusal of record shows that, delay of 525 days is caused. Hence, the defendant needs to be compensated by imposing heavy costs. Considering the nature of suit, satisfactory grounds in the application and in the interest of justice, it would be worthwhile to allow the application filed by the plaintiff for the purpose of determining the real question in controversy between the parties. Hence, I pass the following order.

ORDER

- 1] Application (Exh.34) is allowed.
- 2] Delay caused to file written statement to the counter claim on record is hereby condoned.
- 3] The plaintiff is allowed to file his written statement to the counter claim on record subject to payment of costs of Rs. 5,000/- payable to the defendant.

Date : 13/12/2018

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(S. N. Hurgat)
Joint Civil Judge Junior Division,
Pimpalgaon (B)

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