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CNR NO. MHNS14-000040-2015.

Hirabai Bhagwan Gaikwad.

Vs

Sau. Anusayabai Yashvant Raut.

ORDER BELOW EXH. 51 IN R.C.S. No. 06/2015.

The defendant no.1 has filed this application for condonation of delay to file written statement. It is claimed that, delay of 3 month and 25 days has been caused.

2. The plaintiff has filed his say and contended that delay of 5 months and 25 days has been caused. No sufficient cause and reason given by defendants to condone the delay and hence, requested to reject the application. Hence, it is prayed by the plaintiff that, in case the application has to be allowed, cost of Rs.2,000/- should be awarded.

3. Considering the contention of defendant no.1 and plaintiff, following points arise for my determination and I have recorded my findings alongwith reasons stated as under :-

<u>SR. NO.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether the application should be allowed ?	Yes.
2.	What order ?	As per final order.

REASONS

AS TO POINT NOS. 1 AND 2 :-

4. Considered nature of the suit and gist of the application. *Prima-facie* it appears that, statutory right to

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defend the suit claim is conferred on the defendants. But, they have failed to file written statement, within the prescribed period. Admittedly, because of the delay in filing written statement, certainly it would have caused hardship to the plaintiffs. This delay unnecessarily prolonged the matter. Hence, the plaintiff should be given cost for the purpose of compensating the hardship. However, the written statement of the defendants should be taken on record for the purpose of final disposal of the proceeding on merit. The principle of natural justice, "hear the other side" should not be overlooked. I am of the opinion that cost of Rs. 1,500/- would meet the ends of justice. Hence, I proceed to pass following order :-

-:: ORDER ::-

1. The application is allowed subject to cost of Rs.1,500/- (Rupees One Thousand Five Hundred Only).
2. After payment of Rs. 1,500/- to the plaintiff, written statement of the defendant no.1 would be taken on record.

Date :- 05/11/2019.
Place :- Dindori.

(Smt. S. P. Kulkarni)
Civil Judge, Junior Division,
Dindori.