



ORDER BELOW EXH. 95 In R.C.S NO 185/2013

Shri. Jaywant Baburao Padol Vs. Shri. Vitthal Vinayak Padol

Defendant no. 3C and 8 filed an application for Condonation of delay for filing say and written statement on record.

2. These defendants filed present application contending that, it is necessary to filed say and written statement on record within limitation. However, due to technical issue these defendants failed to filed their say and written statement on record within limitation. These defendants have not deliberately delayed the proceedings of the case. Furthermore they will adopt the say and written statement of the defendant no. 1. If this application allowed then there is no any injustice to the plaintiff. Hence, prayed for the allowed this application.

3. Plaintiff filed his say at Exh. 97. Stating therein that, the present application is not maintainable. The defendant no. 8 served with the suit summons in the year 2013 i.e. before 11 years. The defendant no.3 C served with the suit summons near about before 6 to 7 years. These defendants have not assigned any reason for the so called delay. This is negligence of these defendants. Hence, prayed for rejection of the present application. If the court opinions that, the application be allowed. Then the cost of Rs.5000/- each be imposed upon these defendants.

4 Heard learned Advocates for the parties. As per Order VIII Rule 1 of the Civil Procedure Code, defendant have to file a written statement

within 30 days from the service of summons. If the court thinks fit then the time can be extended up to 60 days more, but the defendants have not filed their written statement within the time limit. On perusal of the record, it appears that suit is filed for partition and declaration.

5. Admittedly, the delay is caused to the filing of say and written statement on the record. However, in order to adjudicate the difference between the parties on merit and to avoid further complications, it is necessary to give an opportunity to these defendants to file their written statement on the record. However, delay caused to file written statement and thereby lingering the case on the same stage cannot be overlooked. Hence, it would be appropriate to impose the cost on these defendants. In this backdrop I am inclined to pass following order by taking a liberal approach.

ORDER

1. The present application is allowed subject to cost of Rs. 500/- each i.e. Rs. 1000/- payable to the plaintiff by these defendants on or before next date.
2. Written Statement will be taken on record after compliance of clause 1 of this order.
3. Parties to take note of this order.

Date. 11/11/2024

(Ashwini A.Pandit)

2nd Jt. Civil Judge Junior Division Dindori
(MH03260)