

**Common Order below Exh.61 & 63 in R.C.S.No.80/2012**

1. These are applications filed by defendant No.3 seeking to condone the delay and to set aside the order of *ex-parte* hearing dated 14-12-2015 and to permit defendant to file *written-statement* on record attached with the applications.

2 Perused applications, say of application Exh.65. Heard, both sides at length.

3. The only grounds set up for filing the applications are that the defendant No.3 could not get proper information of the suit. The plaintiff vide say pointed out that not only once, but the defendant No.3 have been served with summons twice vide bailiff report Exh.10 and Exh.24 and thus the grounds are not proper and correct.

4. Having heard both sides at length and having gone through the record and proceedings, it can be seen that the suit was originally instituted before Civil Judge, Sr. Div, at Niphad bearing Spl. Civil Suit No.83/2011. The defendant No.3 was served with the suit summons as per report Exh.10, when the suit was pending with the Civil Judge Sr. Div. The summons was again issued to defendant No.3 as an abundant precaution on transfer of the suit to this court. The summons was again duly served as per bailiff report Exh.24. Thus, the Ld. Predecessor after satisfying due service of summons, directed to proceed and hear the suit *ex-parte* against defendant No.3.

5. It is not the case of defendant No.3 that he did not served with summons. The report Exh.10 and 24 shows due service vide Or-

der 5 Rule 17 of C.P.C.. Thus, the defendant seen to have knowledge of service of summons. The defendant is also not disputing his address and the house on which the summons has been stick-up and served. He did not explain as to how he got knowledge of the suit for making belayed appearance. Though application of delay condonation is filed (it is in fact not necessary), the application also does not bear any satisfactory reason for delay. Even, when the summons was served ? how that service is not proper ? what number of days delay caused ? Is also not mentioned in the application. Even not properly argued. Thus, apparently there was no sufficient cause for making delay of more than two years after second service of notice. The hearing was already commenced. Thus, no reason found to allow the application. Hence, following order is passed :

**ORDER**

- 1) Application stands rejected.
- 2) Matter being five plus years old parties are directed to conduct hearing expeditiously without seeking unnecessary adjournments.

**Place : Yeola.**  
**Date : 22-02-2018**

**(Sudhir N. Shinde)**  
**Civil Judge, J.D. Yeola.**