



Poonam Yadav Vs.
Harishchandra Gole & ors.

ORDER BELOW EXH.52

The present application is moved by the defendants No.11 to 18 for condonation of delay in filing written statement on record within stipulated time before the court.

02 I have perused the application and heard Ld. Advocate for defendants. He contended that there is delay of almost 425 days for filing written statement on record. Such delay is not intentional. He further stated that summons was not duly served on them and they appeared before the court suo moto on 01/11/2019. Hence, Ld. Advocate for the said defendants prayed for condonation of delay caused in filing written statement.

03 In spite of sufficient opportunities given to the plaintiff, no say is filed on present application till today. Hence, this court passed No Say order on present application and proceeded to decide the said application.

04 It appears from the record that the present suit is filed for partition, declaration and perpetual injunction. No written statement was filed by said defendants within stipulated period. It appears from the record that there is considerable delay in filing written statement to the suit caused by the defendants. It is settled principle of law that both parties should be given equal opportunities to defend their claims so as to facilitate effective adjudication of subject matter in dispute. Though there is considerable delay of almost 425 days, it can be compensated through costs. Considering the contents of application and circumstances of the case, it is necessary to give opportunity to the

defendants for proceeding against the plaintiff to arrive at concrete conclusion. Delay caused in the present suit due to non filing of written statement by the defendant Nos.11 to 18 can be compensated through costs. It is just and proper to allow the said defendants to defend the suit by filing his written statement and fair opportunity also needs to be given to both the parties. Accordingly, I am inclined to pass following order :

ORDER

- 1) Application at Exh.52 is allowed.
- 2) The delay in filing written statement be condoned subject to costs of Rs.300/-.
- 3) Written statement of the defendants No.11 to 18 be recorded after payment of costs.

Date: 19/01/2023

(S. G. Kuvalekar)
Jt. Civil Judge, Jr. Division
Igatpuri.