

**RCS No.104/2019
Shivaji V/s. Pandurang
MHNS230018022019**

COMMON ORDER BELOW EXHIBIT-33 AND 37

The application Exh.33 has moved by the defendant no.04 for condonation of delay and for permission to file written statement along with counter-claim and application no.37 has been moved by the defendant nos.01 and 03 for condonation of delay and for permission to file written statement.

02 The learned counsel for the defendant no.04 has submitted that, initially the defendant has not got important documents and thereafter due to outbreak of Covid-19, they have failed to WS within limitation.

03 The learned counsel for defendant nos.01 and 03 has submitted that, due to outbreak of Covid-19 and lock-down, they have failed to file W.S. The Hon'ble Supreme Court has extended the limitation period from 15.03.2020 to 03.10.2021 and also thereafter extended period of 90 days. Therefore, the written statement is within limitation. If the permission is not granted to file written statement it would caused prejudice to them. Therefore, he prayed for condonation of delay of 26 months for filling written statement and for permission to file written statement.

04 Per contra, the learned counsel for the plaintiff has submitted that, the application is false and not tenable. The defendant nos.01 and 03 has been served with summons on dated 05.12.2019, thereafter they have not filed WS within limitation. On 04.03.2021 the defendants have sought time for filing WS, which

was rejected by the court. Thereafter, defendants have filed this application. The contention in the application are false and not proper. Only to delay the matter defendants have not filed W.S. within limitation. He prayed for rejection of application with heavy costs.

05 Perused record. As per record the summons served on defendant nos.01 to 03 and defendant no.04 on dated 05.12.2019 and 04.12.2019 respectively. The defendant nos.01 and 03 defendant appeared on dated 07.12.2019 and sought time for filing written statement. The defendant no.04 has appeared on 04.01.2020 and sought time for filing written statement. As defendants have failed to file W.S. within limitation before outbreak of Covid-19. Thereafter, due to outbreak of Covid-19 the regular court working has been stopped. However, there is no progress in the matter. The trial of the suit is yet to be commenced. The reason assigned by the defendants is not satisfactory. However, to decide the matter on merit and to avoid multiplicity of litigation it would be proper to give an opportunity to defendant nos.01 and 03 and defendant no.04 to defend the matter by filing their WS on record. The plaintiff can be compensated for the delay caused. Considering above all, I pass the following order:

ORDER

The application Exh.33 and 37 are allowed subject to costs of
Rs.1,000/- each be given to plaintiff.

Date :- 22.07.2022

(M. M. Alone)
Civil Judge Junior Division,
Igatpuri