

ORDER BELOW EXH. 16

The present application is moved by the defendant 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 defendant. He contended that there is delay for filing written statement on record due to covid lockdown and unavailability of documents. He further stated that summons was duly served on them. However, they failed to file their written statement within stipulated time. Hence, Ld. Advocate for the said defendants prayed for condonation of delay caused in filing written statement.

03 The Ld. Advocate for the plaintiffs filed his say on the present application at Exh 18 and contended that said application is false and illegal and there is no sufficient reason to condone the delay caused by the said defendant for filing written statement. Hence, he prayed to reject the said application.

04 It appears from the record that the present suit is filed for relief of perpetual injunction. The defendants appeared in the present suit on 22/11/2018 after due service of summons. However, no written statement was filed by them in stipulated period. It appears from the record that there is considerable delay in filing written statement by the defendant in spite of due service of summons. 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, it can be compensated through costs. Considering the contents of application and circumstances of the case, it is necessary to give opportunity to the said defendants for proceeding against the plaintiffs to arrive at concrete conclusion. It is just and proper to allow the defendant to defend the suit by filing his written statement and fair opportunity also needs to be given to both the parties. Accordingly, following order is passed:

ORDER

- 1) Application at Exh. 16 is allowed.
- 2) The delay in filing written statement be condoned subject to costs of Rs.2000/-.
- 3) Written statement of the defendant be recorded after payment of costs.

Date: 01/09/2023

(S. G. Kuvalekar)
2nd Jt. Civil Judge, Jr. Division
Igatpuri.