

ORDER BELOW EXH. 15 IN R.C.S. No. 305/2016

1] This is an application filed by defendant Nos. 1, 2, 3, 7 & 8 for condonation of delay for filing written statement.

2] According to defendants they did not get old documents. Defendants are resided out of town for their bread and butter. It is further contended that, due to poor knowledge of legal consequences they unable to find out required documents and also unable to give information to their counsel. It is further contended that, present suit involved dispute regarding immovable property and it is required to hear present matter on merits. It is further contended that, if this application is not allowed then there will be irreparable loss to present defendants. Hence they prayed to condoned the delay and their written statement may be taken on record.

3] Plaintiffs by filing say contested present application. According to them defendants have not stated actually which documents they could not get. It is further contended that, delay is not adequately explained. It is further contended that, what efforts defendants have taken is not explained. It is further contended that, this defendants have claimed two remedies i.e. delay condonation and to take written statement on record. It is further contended that, defendants have filed present application to delay the hearing of present suit. Hence plaintiffs prayed for rejection of the application.

4] Perused application, say and record. Heard both the sides. It is seen from the record. Procedural law is to regulate court proceedings. It is always desirable to decide matter on merits. Period

prescribed in procedural law is to time bound the proceedings. But that period should not overcome the substantive rights of the parties. In present matter it is not required to look into much technical issues while deciding application filed for taking written statement on record. Defendants have filed present application because they could not file written statement within statutory period i.e. 90 days. In my opinion this application is filed because of statutory period has lapsed. Hence it is not required to ask for two different reliefs. Hence in my opinion there is not required to go into much technical issue. In spite of that court can decide matter on merits. In such kind applications liberal view is required to be taken. Hence application is deserves to be allowed. But the delay of more than 2 months is required to be compensated. Hence I am passing following order:

ORDER

The application is allowed subject costs of Rs. 200/-.

(P. G. Lambe)

3rd Jt.Civil Judge Jr. Division,
Daund, Dist.-Pune.

Date : 09/03/2017