

Sambhaji Vishnu Tambade
Vs
Anil Govind Bhor

COMMON ORDER BELOW EXH. 11 AND 13

1. These applications are filed by defendant for condonation of delay in filing a written statement and to set aside No WS order passed against them on 03/03/2024.
2. Heard both sides. Considered their submissions.
3. The Ld. advocate for defendant submitted that the summons was duly served on defendant. On 22/12/2023 the defendant appeared before Court and filed VakilPatra on record. He further submitted that the due to delay in obtaining documents in Regular Criminal Case No.173/2016 and Session Case No.137/2019, he could not file written statement within limitation. Therefore, on 03/03/2024 "No written statement" order was passed against defendant. The delay was not intentional.
4. He further submitted that the present suit is for recovery of money. Therefore, it is necessary to file written statement in the interest of justice and to decide the suit on merit. If written statement is read and recorded then no prejudice will be caused to the plaintiff. On the other hand, defendant will suffer irreparable loss. There is near about 11 months delay in filing written statement. Hence, he prayed to allow the application and condone the delay.
5. The Ld. advocate for the plaintiff has filed say and submitted that the defendant did not shown bonafide reason or failed to show any sufficient reason in this application. He further submitted that the time limit for filing written statement Court in the case of Kailash Vs. Nankhu (Supra) to hold that if the delay in filing written statement can be compensated with costs, delaying benefit of filing written statement would be unreasonable. Hence, he prayed to

reject the application and if the Court is of the opinion to allow the applications then allow the applications by imposing costs of Rs.30,000/- in both applications.

6. Perused record. It appears from that the suit has filed for recovery of money. On perusal of the application, it appears that the defendant was unable to collect the essential documents which are required for the trial of suit. Hence they failed to file their written statement within 90 days from the service of summons. Admittedly, there is near about 11 months delay for filing written statement. The written statement is a preliminary defense of the defendants, where the defendants raises their objection to the plaintiff's claims and puts forth their version of events. Therefore, it is necessary for deciding the suit on merit.

7. If the application is rejected, the defendant will not get the opportunity to put his case on record. Considering the facts and circumstances of the suit in hand, and the reasons mentioned above, also in order to give fair opportunity of hearing, application needs to be allowed. The delay of near about 11 months in filing the written statement can be compensated in terms of money. Accordingly, in the interest of justice and for deciding the suit on merit, I pass following order.

ORDER

- 1) The applications at Exh.11 and 13 are allowed subject to a cost of Rs.1000/- be paid to the plaintiff.
- 2) The delay for filing of written statement of defendant is condoned.
- 3) The "No written statement" order dated 03/03/2024 passed against defendant is hereby set aside.

- 4) The written statement of the defendant is taken on record after payment of the above cost.

Sd/-

(Sneha Sunil Pulujkar)
2nd Joint Civil Judge Junior Division,
Ghodegaon, Dist. Pune.

Date : 30/06/2025

CERTIFICATE

I affirm that the contents of this PD.F. file are same word for word as per original order.

Name of the Court : Smt. Sneha Sunil Pulujkar,
Joint Civil Judge Junior Division,
Ghodegaon, Dist. Pune

Name of the Steno : J. S. Kaite, Steno Grade - III.

Order date : 30/06/2025

Order signed by P.O. on : 30/06/2025

Order uploaded on : 30/06/2025