

ORDER BELOW EXH. 107 IN Spl.C.S. NO. 129/2021

1. This application is filed by defendant no.3 to 8 for condonation of delay in filing Review Petition. These defendants contended that the present suit is for declaration that, plaintiff and defendant no.9 are having 1/4th share in the suit property. The application filed by plaintiff at Exh.5 for interim injunction is allowed. These defendants intend to file a Review Petition but there is a delay of 63 days. Hence, prayed that the delay be condoned.

2. Plaintiff resisted this application and filed his reply at Exh.112. The plaintiff contended that the application is false and frivolous and liable to be rejected. These defendants have not explained the delay. Grounds mentioned are not satisfactory. Hence prayed that application be rejected.

3. Considering rival contentions of both the parties following points arise for my determination and I record my findings thereon for the reasons mentioned below.

No.	POINTS	FINDINGS
1	Whether application is liable to be allowed ?	... in the positive.
2	What Order ?	... As per order.

:: REASONS ::

POINT NO.1. :-

4. Heard learned Advocate for plaintiff. Advocate of defendant no.3 to 8 absent when called repeatedly. This application is pending for last eight months. Perused the application and reply. Perused the order passed by this court below Exh.5. The said order was passed below Exh.5 on 20-09-2022. The present application for review is filed on 20-12-2022.

Therefore there is a delay of 63 days. These defendants are claiming that they are having 1/4th share in the suit property. Application Exh.5 was allowed and defendants were restrained from creating third party interest, withdrawing enhanced compensation amount. Hence, defendants want to review the said order. Considering the nature of application and the rights involved, an opportunity needs to be given to the defendants by condoning the delay. But at the same time the delay caused cannot be overlooked. Thus, I am of the opinion that application is liable to be allowed subject to cost of Rs.2,000/- to be paid to the plaintiffs. Thus, I answer point no.1 in the positive and in answer to point no.2 I pass the following order.

:: ORDER ::

1. Application is allowed subject to costs of Rs.2,000/- to be paid to the plaintiff on or before next date.
2. If the costs amount paid within stipulated period, the application for Review be taken on record.

Panvel,
Date : 01-09-2023.

(Nayomi P. Pawar)
Civil Judge, Senior Division Panvel.