

:: ORDER BELOW EXH. 25 ::

Defendant no. 2 filed this application to set aside no written statement Order passed on 25/06/2018 and to condone the delay caused to file his written statement. The Ld. Advocate for plaintiff filed say on application at exh. 27.

2. Heard Ld. Advocate for defendant no. 2. He submitted that defendant no. 2 is old age. He cannot move from his bed. Hence, delay cause to file his written statement. To decide the matter finally it is necessary to condone the delay caused to file written statement by setting aside no W.S. Order. Irreparable loss may be cause to defendant no. 2 if application is not allowed.

3. Ld. Advocate for plaintiff filed say and submitted that defendant no. 2 failed to file his written statement within limitation. Delay is not properly describe. False application to cause delay is filed by defendant no. 2. No medical document attached by the defendant no. 2 with this application. Delay to file W.S. is caused intentionally. Hence he prayed to reject the application.

4. Considering the submissions and document on record it

seems that delay to file W.S. is caused due to reasons which are out of control of defendant no. 2. To decide the matter finally it is necessary to bring W.S. of defendant no. 2 on record. Heavy loss would be cause to defendant no. 2, if his W.S. not bring on record. In the interest of principal of natural justice and the maxim audi alteram partem, it is necessary to allow the application. But it is necessary to taken to consideration that, hearing of the suit was already started. On filing of written statement, suit will came back to frame issues. So it is necessary to impose heavy cost on defendant no. 2. Hence for the above mentioned reasons, I pass following Order -

ORDER

1. The application below Exh. 25 is allowed.
2. No written statement Order passed on 25/06/2018 is hereby set aside and delay to file W.S. by defendant no. 2 is hereby condone, subject to cost of Rs. 2,000/- to be paid by defendant no. 2 to the plaintiff.

Date : 16.12.2019
Place: Khalapur

(Vishal Shravan Dhondage)
Jt. Civil Judge Junior Division