



ORDER PASSED BELOW EXH.61

1. This is an application filed by the defendant no. 3, 5 and 8 for condone delay to file written statement on the grounds mentioned in the application.
2. It is mentioned in application that, the defendant could not able to file his written statement within time due to their personal difficulties. It is also mentioned that, an opportunity is required to be given to file written statement, otherwise the defendants will suffer from irreparable loss which could not be compensated and prayed to allow the application.
3. Plaintiff is stated that necessary order be passed.
4. Perused the application and say. Heard both sides. The defendant has mentioned the reason behind non filing of written statement. The suit record further revealed that, there is delay to file written statement on record. The plaintiff has filed the suit for declaration and injunction. The suit is involving the civil rights of the parties. It is the proposition of law that, "*No one should be condemned unheard.*"
5. As per Order 8 Rule 1 of the Code of Civil Procedure, it is mandate of law that, written statement shall be presented firstly within 30 days and thereafter within 90 days. At this juncture, I would like to state that, it is settled position of law that, this provision is to curtail the delay and not the defence.

6. In view of the legal ratio discussed in the case of, **Sandip Thapar V/s. S.M.E. Technologies Pvt. Ltd., reported in 2014(3) Mh.L.J., 242**, and the fact and circumstances of the case, it appears to me that, grant of permission to file written statement will help this court in full and final adjudication of the matter. It will extend an opportunity to the defendant for raising his defence. On the other hand, it will not cause any noticeable prejudice to the plaintiff.

7. The defendant by way of this application pray to condone the delay to file written statement. The application is supported along with affidavit. Therefore, considering the nature of dispute and for deciding the matter on merit, I am of the opinion that, the application deserves to be allowed subject to costs as in the interest of justice.

ORDER

1. The application Exh. 61 is allowed subject to costs of Rs. 500/- which is condition precedent to this application.
2. Costs be paid to plaintiff.

Date : 29/02/2024

(R.D.Wabale)
Civil Judge Jr. D. Khalapur