

:: ORDER BELOW EXH. 26 ::

Defendant nos. 1 to 8 filed this application to set aside no written statement Order passed on 08/04/2019 and to condone the delay caused to file their written statement. The Ld. Advocate for plaintiff filed say on application at exh. 28.

2. Heard Ld. Advocate Mr. S.S. Jitekar for defendant. He submitted that, defendant nos. 1 to 8 have not got the documents in time. Defendant no. 7 have fracture in her leg so she not remain present in the Court. The husband of defendant no. 6 has died, due to this reasons it was not possible for defendant nos. 1 to 8 to file their written statement within statutory limitations. If written statement of defendants not brought on record then irreparable loss would be cause to defendants. Hence he prayed to allow the application in the interest of justice.

3. Ld. Advocate A.R. Bhusaree for plaintiff filed say and submitted that defendant nos. 1 to 8 failed to file his written statement within limitation. Delay of 4 months (APPX) caused to file written statement. 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 nos. 1 to 8. To decide the matter finally it is necessary to bring W.S. of defendant nos. 1 to 8 on record. Heavy loss would be cause to defendant nos. 1 to 8, if their 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 came back to frame issues. So it is necessary to impose heavy cost on defendant nos. 1 to 8. Hence for the above mentioned reasons, I pass following Order -

ORDER

1. The application below Exh. 26 is allowed.
2. No written statement Order passed on 08/04/2019 is hereby set aside and delay to file W.S. by defendants nos. 1 to 8 is hereby condone, subject to cost of Rs. 2,000/- to be paid by defendants nos. 1 to 8 to the plaintiff.

Date : 24.09.2019

(Vishal Shravan Dhondage)

Place: Khalapur

Jt. Civil Judge Junior Division