

ORDER BELOW EXH. 16 IN R.C.S. No. 43 OF 2016

The defendant no. 1 to 4 & 6 have filed present application for condonation of delay in filing of written statement.

2) The defendant no. 1 to 4 & 6 contended that despite their appearance before this Court they could not file written statement within the period of limitation & delay of 3 months is caused for filling written statement. Further they contended that if delay is caused as defendants are doing their job at different places and they could not provide necessary documents to their advocate for the purpose of filling written statement. They have no knowledge of law. Further they contended that if delay is not condoned irreparable loss is likely to be caused. The trial of the suit is yet to be commenced. Therefore in the interests of natural justice they should be given opportunity in to file written statement to contest suit on merit. Therefore they prayed for condonation of 3 months of delay caused in non filing of written statement.

3) The plaintiff resisted application Exh. 16 by filling his say below Exh. 16 and resisted the application on the ground that reason given by the applicants are not proper. They have not explain delay of 3 months properly. Therefore reason mentioned by the applicants for non filling of the written statement is not reasonable and sufficient. They have deliberately filed written statement belatedly therefore they have caused damages to the plaintiff. Hence prayed for rejection of application Exh. 16.

4) Perused the application alongwith affidavit at Exh. 17 and say filed by the plaintiff. So also perused record of the suit.

5) Heard both side.

6) On perusal of the record, it is apparent that the defendant no. 1 to 4 & 6 appeared before this Court. Despite their appearance they failed to file written statement within a period of limitation. Therefore delay of 3 months is caused for filling written statement.

7) It is observed that the present suit is filed for declaration, removal of encroachment and injunction and to decide the suit on merits an opportunity needs to be given to the defendant no. 1 to 4 & 6 to put forth their defence in the interests of natural justice which will ultimately help in adjudicating the matter on merit.

However the hardship suffered by the plaintiff can be compensated by imposing costs on the defendant no. 1 to 4 & 6.

Accordingly, the following order is passed:-

ORDER

1) The application (Exh. 16) is hereby allowed and delay of 3 months caused in filing written statement is condoned subject to payment of costs of Rs. 500/- by each defendant to be paid by the defendant no. 1 to 4 & 6 to the plaintiff on or before next date.

2) On payment of costs of Rs. 2500/- the written statement be taken on record.

Mahad.
Date: 26.10.2017

(V. R. Doifode)
Jt. C.J.J.D., Mahad.