

MHRG10-001188-2016

ORDER BELOW EXH. 18 IN R.C.S. No. 84 OF 2016

The defendant no. 1 & 5 has filed present application for condonation of delay caused in filing of written statement.

2) The defendant no. 1 & 5 contended that despite their appearance before this Court they could not file written statement within the period of limitation & delay of 2 months 15 days is caused for filling written statement. Defendants failed to file written statement as they could not secure necessary documents and send the same to their advocate for preparing written statement. Hence they contended that if delay is not condoned irreparable loss is likely to be caused. Therefore in the interests of natural justice they prayed for condonation of 2 months 15 days delay caused in filing of written statement.

3) The plaintiff resisted application Exh. 18 by filling his say below Exh. 18 and contended that defendants have not given sufficient cause for non filling of written statement and defendant no. 1 & 5 are educated and have sufficient knowledge of law. Therefore prayed for rejection of application.

4) Perused the application alongwith affidavit at Exh. 19 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 & 5 appeared before this Court. Despite their appearance they failed to file written statement within a period of limitation. Therefore delay of 2

months 15 days is caused for filling written statement.

7) It is observed that the present suit is filed by the plaintiff for partition and cancellation of sale deed and to decide the suit on merits an opportunity needs to be given to the defendant no. 1 & 5 to put forth their defence in the interests of justice which will ultimately help in adjudicating the suit on merit.

However the hardship suffered by the plaintiff can be compensated by imposing costs on the defendant no. 1 & 5.

Accordingly, the following order is passed:-

ORDER

1) The application (Exh. 18) is hereby allowed and delay of 2 months 15 days caused in filing written statement is condoned subject to payment of costs of Rs. 500/- by each to be paid by the defendant no. 1 & 5 to the plaintiff on or before next date.

2) On payment of costs of Rs. 1000/- the written statement be taken on record.

Mahad.
Date: 24.01.2018

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