

Order below Exh. 34 in R.C.S. no. 57 of 2007

The present application is filed by the defendant no. 9 to condone the delay to file his written statement and to take her written statement on record.

2) The defendant contended that she has entered her appearance in the present suit. She is illiterate person. She has no knowledge of law. She could not procure the requisite documents to file her defence. Due to these reasons the defendant could not file his written statement. Hence an order of 'No written statement' was passed against the said defendant. The delay in belated filling of written statement is unintentional and not deliberate. If the written statement is not taken an record, she would suffer irreparable loss.

Hence prayed to allow the application.

3) The plaintiffs resisted the application vide their say contending that the reason mentioned is not proper. There is a delay to file his written statement. The application is filed to delay the matter.

Hence prayed for rejection of the application.

4) Perused the application and say.

5) Heard.

6) On perusal of the record, it is apparent that the

defendant no. 9 appeared through his Advocate. She could not file her written statement since she is illiterate person and has no knowledge of law. The defendant cannot be allowed to go undefended. An opportunity needs to be given to the defendant to put forth his defence in the interests of justice which will ultimately help in adjudicating the matter on merit. However the hardship suffered by the plaintiffs can be compensated by imposing costs on the defendant no. 9.

Accordingly, the following order is passed:

ORDER

- 1) The application (Exh. 34) is hereby allowed subject to payment of costs of Rs. 2,000/- (Rs. Two thousand only) to be paid by the defendant no. 9 to the plaintiffs on or before next date.

- 2) The written statement be taken on record on compliance of this order.

Mahad.
Date: 05.03.2018

(J.T. Koregaonkar)
Civil Judge (J.D.) Mahad