

MHRG140010252016



R.C.S. No.110/2016

Order below Exhibit 99

1. This is an application by defendant no.18 praying to condone delay in filing the WS.

2. It is contended by the defendant that, although summons and notice were duly served on 19/01/2023 and they appeared through counsel, they could not file their written statement in time because the plaintiff did not serve key documents related to the disputed plot (Survey No. 80, Sector 59, Dronagiri Node) along with the summons and notice, those documents were only made available to the defendants on 29/08/2023 after a separate application by the plaintiff. After receiving those documents, the defendants invested substantial time in collecting and verifying their own records, including CIDCO records, during which their authorized signatory was continuously ill and later retired, causing further unavoidable delay in assembling material and instructions for their counsel. Although the defendants tried to obtain all necessary documents and had instructed their legal experts to prepare their explanation, certain essential documents were not received in time and required further follow-up, which delayed preparation of their written statement. The defendants had

no mala fide intention, and the delay of approximately 25 months and 18 days occurred due to genuine difficulties, including late receipt of documents, illness of key personnel, and lack of knowledge of legal technicalities regarding filing period. The defendants acknowledge the requirement to file their explanation and are now ready to present it; in the interest of justice, the delay should be condoned and they should be permitted to file their written statement, failing which they will suffer irreparable loss and injustice. Hence, prayed to condone delay in filing say.

3. While plaintiffs strongly objected the application submitting that, the application filed by the defendant is false, frivolous and has been filed deliberately to cause delay. Looking at the reasons stated in the application, all of them are only intended to delay the hearing of the suit. Hence, prayed to reject this application with heavy cost.

4. Perused the application, supporting affidavit, say documents filed on record.

5. After perusing this application it is found that, the defendants have offered credible and unavoidable reasons for their delay in filing the written statement. The summons and notice were served on 19/01/2023, but the plaintiff did not serve key documents essential for framing the defence, these were only furnished on 29/08/2023. Thereafter, the defendants diligently collected and verified their own records, including CIDCO

documents, and faced additional impediments due to serious illness and subsequent retirement of their authorized signatory, as well as delays in receiving certain documents despite proactive follow-up. These circumstances prevented timely preparation and filing of the written statement, and there is no evidence of mala fide intention or deliberate procrastination; on the contrary, the defendants have consistently demonstrated an intention to defend the suit, which is a fundamental aspect of fair trial. While Order VIII Rule 1 CPC mandates filing of a written statement within 30 days from service of summons and permits extension up to 90 days for reasons to be recorded, the provision also contemplates that courts may exercise discretion to condone delay beyond this period in exceptional and justified cases in non-commercial disputes, to ensure justice is not defeated by procedural rigidity. Yet considering a fair opportunity in the interest of justice and proper execution, I find that the defendant deserves an opportunity to file his WS, at the same time such delay in the proceedings has to be compensated. Hence, the order:-

ORDER

- i. The application is allowed subject to cost of Rs.1000/- to each plaintiff to be paid till next date.

Sd/-

Uran,
Date : 21.02.2026

(M. S. Quazi)
Civil Judge, J.D., Uran