

CNRNO-MHSCA20007242021

IN THE COURT OF SMALL CAUSES AT MUMBAI

ORDER BELOW EXHIBIT-12

IN

LEC Suit No.141 OF 2021

Allabaksh Nagori S/o Gula & Anr. ...Plaintiffs

Versus

Asgar Ali Ahemd Ansari ...Defendant

APPEARANCES :-

Sothe Shabana Farooq, Ld. Advocate for the plaintiff.

Satpute Nitin Shivram, Ld. Advocate for the defendant.

Coram :P. V. Kulkarni

Judge, C. R. No. 17

Date : 17.07.2023

ORDER :

This is an application filed by the defendant for permission to file the written statement. The plaintiff has raised the application by filing say at Exhibit-13.

2. Perused the application as well as say. Heard the ld. Advocate for the plaintiff. I have no opportunity to hear the ld. Advocate for the defendant as he was absent.

3. It is the contention of defendant that, he received the summons but could not file this written statement within 90 days due to his personal difficulties as well as financial difficulties. The son of

the defendant was not well at his native place and therefore he could not pay the fees to his Ld. Advocate. He has good merits in the case. Therefore, it is necessary that, he should be permitted to file written statement, otherwise he will suffer irreparable loss which cannot be recovered in the terms of money. The plaintiff has ill intention to cheat defendant by taking Rs.5,00,000/-. The plaintiff is causing the obstruction to the possession of the defendant. Hence, prayed to allow the application. Per contra, according to the plaintiff, the application is mischievous and malicious. The defendant has suppressed material facts and therefore the application is not maintainable. The defendant can file the written statement within 90 days. There is delay of 432 days to file the written statement. The reason for delay stated in the application is denied. The defendant has no merits in the case. No irreparable loss will be caused to him if the application is not allowed. The defendant is extort money for plaintiff and not paying the rent amount. He has been served with the tenancy termination notice. The defendant was sleeping on his own rights and therefore he is not entitled to file written statement after causing such delay. Hence, prayed to reject the application.

4. I have gone through the entire record. The suit is filed in the year 2021 for eviction on the grounds mentioned in the plaint. The defendant appeared but failed to file written statement within time. Hence, no written statement order came to be passed on 1.3.2022. The present application is filed on 5.6.2023, thus, the delay of more than 1 year has been caused. The reason for delay is stated that the son of the defendant was not well. However, no single document is filed on record in that regard. But, as the suit involves the valuable rights of the parties, opportunity to contest the suit by

filing the written statement can be granted. Cost can be awarded to compensate to delay. The delay of 432 days has been caused. In that light, following order will suffice the purpose.

ORDER

The application is allowed subject to cost of Rs. 500/- (Rs. Five Hundred only) payable to the plaintiff on or before next date.

Mumbai
Dt.17.07.2023

(P. V. Kulkarni)
Judge, C.R.17