

MHRT110000522019



Regular Civil Suit No.08/2019
Mahammad V/s. Ataulla &
Ors.

ORDER BELOW APPLICATION AT EXH.53
(Passed on 17.04.2026)

The present application is filed by defendant no.1 praying thereby to condone the delay caused in filing the written statement and that he may kindly be allowed to file the written statement.

02. Perused the record. Heard both sides.

03. According to the said defendant, the application for rejection of plaint was pending for many days. The delay caused is not deliberate one. There is no negligence on their part in not filing the written statement within the stipulated time. Some time also went in collecting the required papers, which are very old. Further, even due to his personal difficulties, he could not contact his advocate in time and give/provide the necessary/required information. Therefore, he could not file the written statement within time. Apart from this, the plaintiff has done amendment in the plaint, after the application for rejection of plaint was decided. There was no intention on the part of the said defendant to cause delay. He was unaware of the law. Hence, they have prayed as stated above.

04. The plaintiff has filed say to the present application at **Exh.56** and has objected to this application.

According to him, after a span of about 5 years from the date of filing of the *vakalatnama* on behalf of the said defendant in this case, the present application is filed. This shows that, the said defendant intended to prolonged the matter. No documentary evidence is attached as regards the delay factor, along with this application. Hence, he submitted that, the application may kindly be rejected.

05. From perusal of the record, it can be seen that, almost more than 6 years have elapsed from the date of appearance of the said defendants, on record. The present application is filed on 22.01.2026.

06. The plaintiff has filed this suit for declaration and perpetual injunction. Therefore, it can be seen that rights of the parties are involved in the suit properties. As such, principles of natural justice demand that fair opportunity should be given to the parties to put forth their case. Hence, if the application as prayed for is allowed, no loss as such would be caused to the plaintiff. On the contrary, if the application is rejected, the very right of the said defendant to put forth his case would be, in a way, denied. However, looking to the time i.e. taken by defendant no. 1, I find that, reasonable costs should be imposed on him, for the time i.e. consumed by him. This is also because, though the application for rejection of plaint took considerable time for its decision, the fact remains that, nothing prevented the said defendant from filing the written statement, promptly, after filing of the application for rejection of the plaint. No reason

for their inability to do so is reflected in this application. In other words, what prevented them to file the written statement diligently, during so many years, is nowhere explained with sound reasons. More particularly, as ignorance of law is not an excuse. Hence, imposing such costs for the considerable delay caused, would serve the purpose of justice. Thus, considering the overall situation, I proceed to pass the following order -

ORDER

1. The application Exh.53 is allowed.
2. Defendant no.1 is permitted to file the written statement, subject to payment of costs of Rs.1,000/- to the plaintiff/in the court, on or before next date.
3. Defendant no.1 to bear the costs of this application.

Place - Guhagar
Date - 17.04.2026

(**Pratik V. Kapadia**)
C.J.J.D, Guhagar

Certificate

I affirm that the contents of this PDF file Judgment/order are same, word to word, as per the original Judgment/order.

Name of Stenographer	Shri Dheeraj R. Chavan, Stenographer Grade III
Name of Court	The Court of Civil Judge, (J.D.) and J.M.F.C, Guhagar
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