

ORDER BELOW EXH. 23 IN SPL.C.S. NO. 25/2024

(Suhas Bandewar Vs. Narendra Kamboj and Ors..)

[CNR No.MHSO12000-144-2024]

Defendant No. 1 has filed present application for delay condonation and permission to file written statement on record. It is his contention that, due to non availability of necessary documents and information he could not provide information to his advocate to prepare written statement. Therefore, delay of 183 days is caused to file written statement and say within stipulated time. Therefore, delay caused in filing written statement and say is necessary to be condoned in the interest of justice. The delay caused is not deliberate. Hence, the application.

2) The learned advocate for plaintiffs have filed reply on the application itself and objected the application on the ground that the application is not true and correct. The reasons mentioned in the application are not true. The defendant is causing delay deliberately and intends to prolong the matter. Therefore, application deserves to be rejected.

3) Perused the application and say thereon. Heard both sides. It is not disputed that defendant no.1 is served with suit summons on 13.04.2024. As per Order VIII, Rule 1 of Code of Civil Procedure, 1908, defendant has to file his written statement within a period of 30 days. Accordingly, present defendant has to file his written statement on or before 13.05.2024. The present application along with written statement has been filed on 21.01.2025. It is seen that delay of near about 8 months has been caused to the defendant. The proviso provided to Order VIII, Rule 1 of Code of Civil Procedure, 1908 says that, if the defendant failed to file written statement within

a period of 30 days, he shall be allowed to file the same within the period of 90 days. The period of 90 days was expired on 13.07.2024. It is seen that the written statement is not filed within the period of 90 days also and from the date of completion of 90 days, the delay of near about 6 months has been caused to the defendant. It is seen that defendant has shown sufficient reasons for condonation of delay. The plaintiffs have filed present suit for declaration of sale deed executed in favour of defendant no. 1 is illegal and not binding upon the plaintiff and for other reliefs. Considering the nature of suit and reliefs claimed by the plaintiff, written statement of defendant no.1 is required on record for full & final adjudication of the matter. No prejudice will cause to the plaintiff, if application is allowed. On the other hand, if it is rejected, grave prejudice will cause to defendant no.1. The plaintiff will be compensated for the delay caused by defendant no.1. Hence, the application deserves to be allowed. Accordingly, I pass following order.

ORDER

1. The application below Exh.23 filed by defendant no. 1 is allowed subject to costs of Rs.1000/- (Rs. One Thousand only) to be paid to the plaintiff on or before next date.
2. The delay caused to defendant No.1 in filing written statement is hereby condoned and permission is granted to him to file written statement on record.

Date : 29/03/2025

(**Revati M. Kante**)
Jt. Civil Judge, Sr. Div., Barshi.

CERTIFICATE

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

- a) Name of the Stenographer : G.L.Sutar, Steno. Grade-2
- b) Court : Jt. C.J.S.D. and A.C.J.M.,
Barshi.
- c) Date of Judgment/Order : 29.03.2025
- d) Judgment/Order signed by
the Presiding Officer on : 29.03.2025
- e) Judgment/Order uploaded on : 04.04.2025