

ORDER BELOW EXH. 21 IN R.C.S. NO. 139/2021

(Date 22.12.2022)

This is an application filed by defendants no. 1 and 2 for setting aside no written statement order, and condonation of delay in filing the written statement.

2. Defendants no. 1 and 2 in their application contended that the plaintiff told them that the case has been compromised, and there is no need to go to court. Therefore, defendants no. 1 and 2 could not appear before the court. Later due to the Covid-19 pandemic defendants no. 1 and 2 not appeared before the court. During that period no written statement order was passed against the defendant. After receiving the letter from the advocate, they came to know that the plaintiff has not compromised the suit. Therefore delay is caused in filing the written statement. Hence prayed for condonation of delay and setting aside no written statement order.

3. The plaintiff filed his say on the overleaf of the application and contended that the application of the defendants is false and frivolous. The defendant deliberately not appeared before the court. Hence prayed for the rejection of the application.

4. Heard learned advocates representing the parties. They reiterate the contention made in the application and say.

5. Perused roznama and documents on record. Defendants no. 1 and 2 have filed on record, a 'no instruction notice' issued by learned advocate P.S. Kumbhar and postal acknowledgment issued to the defendants. It appears that defendants no. 1 and 2 appeared

before the court on 06.04.2021. In spite of that, they failed to file their written statement within the stipulated time. Therefore, no written statement order was passed against defendants no. 1 and 2 on 06.01.2022.

6. This is a Suit for permanent injunction. Considering the nature of the suit, it appears that defence of defendants no. 1 and 2 will be helpful to adjudicate the case effectively. Valuable rights of the parties are involved in respect of immovable property. Therefore, to give fair opportunities, it is just and fair to condone the delay and to set aside no written statement order passed below Exh. 1. Considering the delay it is equally important to compensate the plaintiff in terms of Costs. Therefore, considering the delay amount of Rs. 800/- would be sufficient. Hence, I pass the following order:

ORDER

1. The application is allowed, the delay is condoned and no written statement passed below Exh. 1 be set aside, subject to payment of Rs. 800/- by defendant no. 1 and 2 to the plaintiff on or before next date.
2. The written statement to be taken on record on compliance of above order.

Mohol

Date: 22.12.2022

(R.R. Jadhav)
2nd Jt. Civil Judge Junior Division,
Mohol.