

ORDER BELOW EXH.21
IN
Spl.C.S.No.628 of 2023
(CNR No.MHSO220021292023)

This is an application filed by defendant No.2 to condone the delay to file W.S and set aside ex-party order.

2] It is submitted by application that due to out of station for work and unavailability of some important documents, he could not give information to his advocate within time. Hence, he could not file the W.S. within time, there is delay to file the W.S., it be condoned and set aside the ex-party order.

3] The application is strongly challenged by filing say that it has been filed at very late stage. Moreover, there is no any specific and genuine reason as to why defendant is prevented from filing written statement. The reason shown in application is vague and cryptic. Hence, not acceptable. The delay caused to file written statement is deliberate one and considering the settled principle of law deliberate delay cannot be condoned. Therefore, the application be rejected.

4] Perused the record.

5] Heard learned advocates for the parties.

6] Defendant No.2 have filed the present application on 05.03.2024. The ex-party order is passed on 01.08.2023. The application is supported by an affidavit. The suit is filed for declaration and injunction. In the interest of justice and proper adjudication of the suit, the delay should be condoned to file W.S. and ex-parte order be set aside. At the same time, as the matter is prolonged and some inconvenience is caused to plaintiff, it needs to be compensated by imposing costs. Therefore, following order is passed.

ORDER

1. Application is allowed subject to costs of Rs.300/-, to be paid to plaintiff.
2. The delay is condoned to file W.S. and ex-party order is set aside.
3. Written statement be taken on record.
4. If applicant fails to comply, the application shall be automatically filed.

Place : Karmala.
Date : 11.11.2024.

(M. P Ekhe)
Civil Judge Senior Division,
Karmala.

CERTIFICATE

I affirm that, the contents of the this P.D.F file Order/Judgment are same word to word, as per the original order/ judgment

Name of Stenographer : B.R.Kondekar
Court Name : Civil Court Senior Division, Karmala
Date : 11.11.2024

Order/Judgment signed
by the Presiding Officer on : 11.11.2024

Order uploaded on : 11.11.2024