

Sp. C. S. No. 49/2014

Sahyadri Co-ope. Sugar Factory

---- Plaintiff

Vs.

Shri. Manoj Bhimrao Ghorpade & ors.

---- Defendants

Order Below Exh. 21

1. The defendants have filed this application to set aside the order of proceed the suit without their written statement.

2. The plaintiff has filed say at Exh. 22. The plaintiff has taken strong objection and prayed to reject it. It is submitted by plaintiff that summons to defendant No. 1 and 3 were served on 20/06/2015 and defendant No. 2 on 19/06/2015. The defendants appeared on 26/06/2015. They did not file written statement within stipulated time. No justifiable ground is mentioned in this application. Therefore, application be rejected.

3. Heard advocate for the defendants. He submitted that defendants could not get necessary information and documents within time and therefore, delay is caused in filling written statement. The defendants wants to defend the suit and therefore, they may be given a chance to file written statement.

4. From the record it is seen that the summons was served on defendant Nos. 1 and 3 on 20/06/2015 and on defendant No. 2 on 19/06/2015. Defendants appeared on 26/06/2015. The delay about 15 months is caused in filling written statement. In support of argument advocate for defendant relied on the decision in Kalpana Udhav Disle Vs. Ganesh S/o. Udhav Disle, reported in B C R 2012 2 149. He further relied on the decision in Yashoda Bhimrao Jadhav Vs.

Mahendra Mandanlal Gundecha, reported in *AIR Bom. R 2013 3 395*.

In which Hon'ble Bombay High Court observed that, *the party should be given an opportunity to contest the matter on merits rather than being thrown out on technicalities. The delay in filling written statement can be condoned by imposing cost on the party.*

5. The present suit is for getting compensation. Therefore, defendant will have to be given chance to defend the suit. But considering the delay caused by them cost will have to be imposed while accepting written statement on record. Hence, in the result I pass the following order.

ORDER

1. No W. S. order passed against defendant Nos. 1 to 3 is set aside on payment of cost of Rs. 500/- (Rs. Five Hundred Only) each payable to plaintiff.

(Dictated and pronounced in open court)

Dt. 18/11/2016
Karad.

(P. A. Savadikar)
Civil Court Sr. Dn. Karad.

Ganesh D. Jadhav,
Stenographer (L.G.)