

CNR NO.MHST-0500 5258 2023

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, KARAD

ORDER BELOW EXH.144

IN

R. C.S.No.667/2020

Ogale Glass Works Ltd. Through Director and Power of Attorney Holder	...Plaintiff.
<i>Versus</i>	
1. Rajaram Pandurang Patil & Ors.	...Defendants.

Advocate Shri. R. D. Kadam for the plaintiff.

Advocate Shri. Sou. J. A. Joshi for the defendant No.10.

Coram : S. B. Todkar,
C.J.S.D. Karad.
Date : 19/08/2024

ORAL ORDER :

This is an application filed by authorized person viz Mahadev Dnyandev Patil of defendant No.10 for condonation of delay and to take the written statement of defendant No.10 on record.

2. Perused the application and handwritten say given by the Ld. Advocate for the plaintiff on the application overleaf. Heard Ld. advocate for both the sides.

3. As per the contents of the present application defendant No.10 not filed its written statement within time. After availability of documents the officers of Post went towards their advocate, prepared written statement, for that purpose time lapsed therefore delay is caused to file its written statement on record. The delay is not caused

intentionally. Hence, the application.

4. It appears from the record that the plaintiff has filed present suit against defendants for perpetual injunction on the grounds specifically mentioned in the plaint. It is admitted fact on record that the writ of summons served upon defendant No.10 on 06/03/2023. Written statement was required to be filed on 06/04/2023. Present application is filed on 21/02/2024. It means that from the date of service of notice present application is filed after the lapse of more than 10 months. After the 30 days from the service of writ of summons upon the defendant No.10 the delay of 8 months caused for filing the present application. I have gone through the Exh.1. It appears that no written statement order against defendant No.10 is not yet passed.

5. The provision under Order VIII Rule 1 of Code of Civil Procedure, 1908 does not deal with power of Court and also does not specifically take away power of Court to take written statement on record though filed beyond the time provided for and the plaint of plaintiff being going to be opposed, it shall be adjudicated on merit and for the fair adjudication of the matter in hand, this application deserves to be allowed as the authorized person of the defendant No.10 on oath has given sufficient reasons for causing delay for filing written statement. Alongwith present application, he has filed written statement of defendant No.10 on record. For deciding the real controversy between the parties, considering the nature of suit, allegations made against by the defendants, natural justice and opportunity of being heard, it is necessary to give opportunity to the defendant No.10 to put its defence to the claim filed by the plaintiff. I found substance in the submission made in the present application.

Hence, I proceed to pass the following order.

ORDER

1. Application Exh.144 is allowed.
2. Delay caused in filing present application with written statement to the plaint by the defendant No.10 is hereby condoned subject to cost of Rs.500/- payable to the plaintiff.
3. After payment of cost directly to the plaintiff after deposit in the Court permission is granted to defendant No.10 to file his written statement on record.

Date : 19/08/2024.
Place-Karad.

[S. B. Todkar]
Civil Judge S.D. Karad.