

**Spl.C.S. No.3/2021
IDBI Bank Vs. Ajmera
Agency and Ors.**

ORDER BELOW EXH.17.

Read an application and the say filed by the plaintiff. Perused the record. Heard the learned counsel for Defendant No.1 Adv. Shri. A. K. Shinde. Today, the plaintiff and his counsel are absent when called. The defendant No.1 is absent but his mother namely Salama Nasirkhan Dange is present before the Court.

2. On perusal of record, it appears that the plaintiff filed this suit against defendants for recovery of money of Rs.9,71,458/-. This suit is proceeded without written statement of defendant Nos.1 and 2 as per order below Exh.1 dated 23.12.2021. This suit is also proceeded ex-parte against defendant No.3 as per order below Exh.1 dated 23.12.2021. Subsequently, the defendant No.1 filed this instant application and prayed to grant permission to file written statement. According to the plaintiff there is 11 days delay to file the written statement.

3. On perusal of record, it appears that the suit summons is served to defendant No.1 on 25.08.2021. Thereafter, the defendant No.1 appeared through his counsel on 17.09.2021. Then the defendant No.1 filed

adjournment application at Exh. 13 , Exh. 14, Exh.16 and the same applications were granted. However, the defendant No.1 did not file written statement within the prescribed period. On 14.03.2022, the defendant No.1 filed this instant application and prayed to condone delay of 11 days and to grant permission to file the written statement. So, it appears to my notice, that the defendant No.1 has made delay of near about 6 months to file the written statement from the date of his appearance. I also perused the adjournment application at Exh. 10, Exh.14, Exh.16. The reason mentioned in the said applications for not filing written statement within the time is not appears to be justified. However, the same applications were granted by my learned predecessor. The reason mentioned in the instant application is also not appears to be justified. So, It appears to my notice, that the defendant has not filed written statement within the time and there is no such sufficient reason to make delay. However, in order to adjudicate the suit on merit, it is necessary to grant an opportunity to defendant No.1 to file W.S. However, the defendant No.1 is liable to pay costs to the plaintiff. Accordingly, I proceed to pass the following order.

ORDER

- 1] The application is allowed.

- 2] The defendant No.1 is permitted to file the written statement subject to costs of Rs.1000/- payable by the defendant No.1 to the plaintiff till next date, otherwise this application shall automatically stands rejected.
- 3] Defendant No.1 may deposit the costs amount Rs.1000/- in the Court, if the plaintiff is not available in the Court.
- 4] Both parties are directed to take note of it.

Vaduj
Date : 08.08.2022

(D. D. Fulzele)
Civil Judge Sr. Dn., Vaduj.