

**R.C.S. No.56/2022
Indubai & Ors. Vs.
Sachin & Ors.**

ORDER BELOW EXH.20

Read an application and the reply filed by plaintiffs. Perused the record. Heard the learned counsel for the plaintiff Adv. Shri. P.S. Godse and the learned counsel for defendant No.11 Adv. Shri. A. H. Suryawanshi.

2. The defendant No.11 filed this instant application and submitted that the defendant No.11 appeared through his counsel. However, he could not file the written statement within the prescribed period. Now the defendant No.11 want to file the written statement. Therefore, he prayed to set aside 'no written statement' order and grant permission to file the written statement. The learned counsel for defendant No.1 Adv. Shri. A. H. Suryawanshi submitted that there is 46 days delay to file the written statement. The relevant documents was not available in the hands of defendant No.11 and therefore, the defendant No.11 was unable to file the written statement within the time. Therefore, the learned counsel for defendant No.11 prayed to condone delay of 46 days and to grant permission to file the written statement.

3. On perusal of record, it appears that the suit summons served to defendant No.11 on 25.03.2022. The defendant No.11 appeared through his counsel on 01.04.2022. The defendant No.11 ought to file the written statement within 30 days from the date of service of

summons i.e. up to 25.04.2022. the defendant No.11 filed this instant application on 10.08.2022. Therefore, it appears that there is delay of more than 3 months to file the written statement. The reason mentioned in the application that the defendant No.11 was unable to file the written statement as the relevant documents was not available in the hands of defendant No.11 cannot be accepted. However, in order to adjudicate the matter on merit , It is necessary to grant an opportunity to defendant No.11 to contest this suit. Accordingly, I proceed to pass the following order.

ORDER

- 1 The application is allowed.
- 2 The defendant No.11 is permitted to file the written statement in the interest of justice.
3. Both the parties are directed to take note of it.

Vaduj
Date: 08.12.2022

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