

R.C.S. No. 1047/2019
Vithoba Vs. Subhash and ors.

ORDER BELOW EXH.15A.

Read an application. No reply filed by the plaintiff. Perused the record. Heard the learned counsel for the defendant No.1 Adv. Shri. S.K. Dhumal. The learned counsel for the plaintiff Adv. Shri. P.D. Sawant and the plaintiff are absent when called.

2. The defendant No.1 filed this instant application and submitted that the defendant No.1 appeared through his counsel, but the defendant No.1 could not file the written statement within the period of limitation. Now, the defendant No.1 want to file the written statement. According to the defendant No.1, the relative of defendant No.1 Balu Tukaram Bagal died on 02.11.2020. The defendant No.1 was residing in the State of Orissa in the lock-down period and therefore, he could not attend the Court during lock-down period. The power of attorney of the defendant No.1 was engaged in the illness of his relative of Balu Tukaram Bagal and therefore, he could not file the written statement within the time. The learned counsel for the defendant No.1 submitted that the defendant No.1 want to file the written statement and therefore prayed to set aside 'no written statement' order and grant permission to file the written statement.

3. On the contrary, no any reply filed by the plaintiff. However, on perusal of record, it appears that the suit summons served to the defendant No.1 on 21.12.2019.

The defendant No.1 appeared through his counsel on 30.01.2020. It is also noticeable fact that there was Covid-19 pandemic period since the March 2020 up to December 2020. The Court functions was also closed during the lock-down period. However, it is also necessary to mention here that the Court functions started in the year 2021. However, the defendant No.1 did not file such application within the time. The reason mentioned in the application is not justified. There is so much delay to file the written statement. Even, if it is so, it is necessary to grant an opportunity to the defendant No.1 to file written statement, in order to adjudicate the suit on merit. However, the defendant No.1 is liable to pay compensate to the plaintiff. The defendant No.1 is liable to pay cost to the plaintiff. Accordingly, I proceed to pass the following order.

ORDER

- 1 The application is allowed.
2. 'No written statement' order dated 09.02.2021 be set aside and the defendant No.1 is permitted to file the written statement subject to cost of Rs.3000/- payable by the defendant No.1 to the plaintiff till next date, otherwise this application shall automatically stands rejected.
4. Both the parties are directed to take note of it.

Vaduj
Date: 29.11.2022

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