

MHTH170015942021

R.C.S. No.93/2021
Vashishtaprasad Ramagya Gupta Vs Nilesh Churi & Ors.
ORDER BELOW EXH. 29
(21/02/2026)

This is an application filed by the defendant no.1 and 2 under section 5 of the Limitation Act, 1963 for condonation of delay of 1148 and 422 days respectively caused for filing of written statement.

2. It is the contention of the defendants that, after due service of suit summons, defendant Nos.1 and 2 appeared in the suit on 17/08/2022 and 13/08/2024 respectively. It is further stated that upon inquiry, it was revealed that a similar civil suit bearing R.C.S. No. 76/2020 had earlier been filed by the present plaintiffs against the previous owner of the suit property, which came to be unconditionally withdrawn on 12/12/2020. Thereafter, steps were taken to obtain certified copies of the documents from the said proceedings, and the certified copies were obtained on 19/03/2025. It is further submitted that the learned Advocate for the defendants, Mr. A.P. Adhikari, expired in the month of April, 2025. Consequently, the defendants had to collect the relevant case papers from his office and thereafter engaged a new advocate to conduct the matter. Due to the aforesaid circumstances, the defendants could not file their written statement within the stipulated period. Delay is not intentional. By filing this application, defendants want to file written statement. The defendants prayed that the application be allowed.

3. The plaintiff has filed say at Exh.31 opposing the application. It is contended that the reasons assigned by the defendants are neither justifiable nor supported by cogent grounds.

According to the plaintiff, the defendants have deliberately and intentionally delayed the proceedings. The plaintiff has therefore prayed that the application be rejected with costs.

4. I have heard both the parties.
5. Considering rival contentions of the parties following points arise for my determination.

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
01.	Whether applicant/defendants have shown sufficient cause to condone the delay ?	...Yes.
02.	What order ?	-As per final order.

As to point No.1 and 2 :-

6. Perused the record. This is a suit for mandatory and permanent injunction. It is the contention of defendants that for reason stated in the application, they could not file written statement within prescribed period. The defendant no.1 has also filed an affidavit in support of the application along with the written statement. On perusal, it appears that the delay has not caused deliberately. The rights of parties involved in the subject matter. In the interest of justice, the present application deserves to be allowed. Considering all the above reasons, I record my findings to point No.1 in the affirmative and proceed to pass the following order:

Order

1. The application is allowed .
2. Delay of 1148 and 422 days respectively for filing written statement is condoned.

(Dictated and pronounced in open Court.)

(D. D. Suryawanshi)

Date : 21/02/2026.
Place : Palghar

Jt. Civil Judge Senior Division,
Palghar.