

**ORDER BELOW EXH. IN R.C.S. NO. 26/2022**  
**( Mirabai Ajabrao Pathe V/s. Hemraj Laxman Pathade )**

The defendant has moved the present application for condonation of delay occurred in filing WS. He contended that due to illness he was unable to attain court and so he could not file WS with stipulated period. He further contended that, the delay is not intentional one and in the interest of justice has to be condoned. Hence, prayed to allow the application.

2. The plaintiff has filed say and denied the contentions of application. Per contra, contended that, the grounds mention are false, summons was duly served, the delay is of 26 days and sufficient cause for the delay is not given. Hence, prayed for rejection of application.

3. Perused the record. It reveals that, the defendant was duly served on 04.05.2022. So it seems that, there is delay of 26 days. The suit is for perpetual injunction and involves dispute regarding right of way. So considering the nature of the suit and the reasons mentioned I hold that to decide the matter on its own merits the defendant has to be granted an opportunity to participate in the present proceedings. This will not cause any prejudice to the plaintiff. Further the delay is of mere 26 days and plaintiff can very well compensated by imposing cost upon defendant for the delay. Considering all above things I hold that application has to be allowed, hence, following order.

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**ORDER**

1. Application is allowed subject to cost of Rs.200/- (Rs. Two hundred only) payable to plaintiff.
2. The delay occurred in filing W. S. is here by condoned and defendant is permitted to file his written statement.

Date: 29/09/2022  
Karanja Gha.

**(V.S. Wagh)**  
Civil Judge Jr. Division,  
Karanja Gha. Dist. Wardha