

ORDER BELOW EXH. 25 IN R.C.S. NO. 30/2021
(Mahadev Shamrao Kamdi V/s. Manik Ganesh Gaurkhede)

The defendant has moved the present application for condonation of delay occurred in filing W.S. He contended that, in present matter he has filed application under Order 7, Rule 11 of C.P.C. and later on he has withdrawn said application. He has contended that, the document necessary for filing the W.S. were old one and were obtained on 22/08/2023. He has further contended that, the delay is not intentional. Hence, prayed to allow the application.

2. The plaintiff has filed say below Exh.26 and denied the contentions of application. Per contra, contended that, the grounds mention are false, the defendant only with the intent to prolong the matter has not filed the W.S., sufficient cause is not given for the delay. Hence, prayed for rejection of application.

3. Perused the record. It reveals that, the defendant was duly served on 01/01/2022. Further, record shows that, he has appeared and filed application under Order 7, Rule 11 of C.P.C. on 18/02/2022. Further, the present plaintiff has filed say to said application on 02/02/2022. Further, record shows that, on 28/07/2023 the application filed below Exh. 19 by the defendant was not pressed. The defendant thereafter, has moved the present application intending to file the W.S.. From the record, it is evident that, the delay is of more than one year. Further, the suit in was question regarding immovable property.

4. 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 can very well compensated by imposing cost upon defendant. Considering all above things I hold that application has to be allowed, hence, following order.

ORDER

1. Application is allowed subject to cost of Rs.700/- (Rs. Seven 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.

sd/-

Date: 09/02/2024
Karanja Gha.

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