

MHYA050028172021



ORDER BELOW EXH. NO. 26

Perused the application filed by original plaintiff and Defendant in counter claim for condonation of delay and to accept his written statement on record. It is contention of plaintiff that he has been filed present suit for partition and permanent injunction against defendants. The defendants in present suit have been filed counter claim on 16/08/2021. He could not file his written statement to counter suit. He could not get time to collect relevant documents, therefore he was unable to file his written statement within time. There is delay to file written statement. Hence, he requested to condone the delay and accept written statement.

2. This application is resisted by plaintiff original defendants by filing his say on same page. It is a contention of plaintiffs that, reasons mentioned in application are not satisfactory, justifiable. It is also contended that, plaintiff has not explained delay properly. Lastly, they requested to reject this application.

3. Perused the record. Heard Ld., advocate for both sides. It

appears on record that, on on 16/08/2021 defendants filed their written statement and counter claim thereafter, plaintiff has sought adjournment to file written statement. The plaintiff ought to have filed his written statement within 1 month from the on 16/08/2021. Thereafter, he has sought adjournment up to 2 months. Already, 90 days time has been lapsed. The reason mentioned in application is not supported by any documentary evidence. However, the present suit has been filed by plaintiff for partition and perpetual injunction against the defendants. The defendants have file counter claim by seeking possession of suit property from plaintiff. The dispute between parties is in respect of immovable property. Therefore, it is necessary to give an opportunity to plaintiff to contest the suit on merit. Inconvenience is caused to the defendants can be compensated by imposing cost upon the plaintiff. There is delay approximately 13 days. Therefore, it is necessary to condone delay. Hence, I pass the following order :-

ORDER

1. Application is allowed subject to cost Rs. 250/- to be paid by the plaintiff to the defendants.
2. Written Statement of plaintiff is accepted.

Date : 06/01/2021
Place : Pusad.

(D.B.Sathe)
7th C.J.J.D., Pusad.