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IN THE COURT OF SMALL CAUSES AT MUMBAI

**EXHIBIT- 13
IN
R. A.D. SUIT No. 1268 OF 2018**

1. Mr. Farhan Hasan Navrangi and ors. .Plaintiffs

Vs.

1. Mr. Matin Yusuf Navrangi & ors. ..Defendants

Coram : S. K. Choudante
Judge,
Court Room No.12
Date :13.08.2019

ORDER :-

This is an application filed by defendant No. 9 for condonation of delay and for filing written statement on record.

1. The facts of the application in brief are that, writ of summons were received by the defendant No. 9 on 8.12.2018. But, he could not appoint the advocate due to financial crises. Any how he approached the advocate Shri. S. R. Patel and accordingly he filed his written statement alongwith application. The delay is not deliberate and intentional. Hence, prayed to condone the delay and to take written statement on record.

2. The plaintiffs have filed his reply at Exhibit-15 and denied the entire contentions raised by the defendant and contended that the date of receipt of summons is 08.12.2018 but he has changed it to 15.12.2018. The application is false, vague and not specific hence, deserves to be dismissed with compensatory cost.

3. In view of rival pleadings of both the parties following points arise for determination and my findings to them with reasons thereon are as follows:

Sr.No.	Points	Findings
1.	Whether the defendant No. 9 is entitled to the relief as sought?	.. In the affirmative.
2.	What order?	..As per final order.

: R E A S O N S :

As to points No. 1 and 2:

4. Perused the application and say. Heard both the parties. It is submitted by the learned counsel for defendant that, due to some financial crises he could not engage the advocate within time. As soon as he could manage, he has filed written statement at the earliest. According to him, suit summons were served upon him on 08.12.2018 and the present application is filed on 25.03.2019 i.e., after a period of 90 days. However, he has submitted that in the interest of justice the application be allowed as the delay is not intentional.

5. The learned counsel for the plaintiffs submitted that entire application and the grounds putforth are false and frivolous. The defendant has caused delay intentionally. The defendant could have filed the written statement within a period of 90 days, but he has not done so only in order to harass the plaintiffs. Therefore it is prayed to reject the application.

6. In view of the rival submissions of both the parties it appears that, admittedly the written statement has been filed after the period of 90 days. However, in order to provide fair opportunity to the parties to decide the matter on merits, and to adjudicate their claims ambiguously, it would be just and proper to allow the defendant No. 9 to file his written statement. However at the same time the plaintiffs are

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also required to be compensated for the delay so caused. As such it would be just and proper to condone the delay and accept the written statement subject to cost of Rs. 300/- which shall be paid by the defendant No.9 to the plaintiffs. Accordingly, I answer to the point in the affirmative and proceed to pass following final order.

: O R D E R :

1. The application is allowed subject to cost of Rs. 300/- to be paid by the defendant No. 9 to the plaintiffs till next date.
2. Cost in cause.

(S. K. Choudante)
Judge
C. R. No.12

Date : 13.08.2019

Order dictated on : 13.08.2019
Order transcribed on : 14.08.2019
Order checked & signed on : 16.08.2019