



Order below Exh.38 in Summary Suit No.19/2024
[Kailas ..Vs.. Pannalal & Ors.]

This is an application filed by defendant no.2 to condone the delay which was caused to file leave to defend application.

2. It is the contention of defendant no.2 that, the summons for Judgment was duly served upon her. However, the documents pertaining to the money-lending proceedings were not supplied to her by the office of the DDR within time and the said documents were received only on 09/05/2025. Thereafter, owing to the summer vacation of the Court, she could not file the application seeking leave to defend within the prescribed period. Consequently, there occurred a delay of 59 days in filing the leave to defend application. It is contended that the said delay is neither deliberate nor intentional, but has occurred due to bonafide and unavoidable circumstances. It is further contended that, if the delay is not condoned, the defendant would suffer irreparable loss and prejudice. Hence, it is prayed that the delay be condoned and the leave to defend application be taken on record in the interest of justice.

3. The plaintiff filed his say overleaf that the application is not maintainable in law and that the reasons assigned for the delay are false and unsupported by any material. It is contended that the defendant has failed to show due diligence in filing the leave to defend application and, therefore, the plaintiff has acquired a valuable right to obtain a decree. Hence, the application, being devoid of merits, deserves to be rejected with costs.

4. I have considered the rival submissions and perused the application as well as the say filed by the plaintiff. The defendant has satisfactorily explained the delay of 59 days in filing the leave to defend application. The

delay appears to be bonafide and not deliberate or intentional. It is a settled principle of law that matters should ordinarily be decided on their merits rather than on technicalities. No serious prejudice would be caused to the plaintiff if the delay is condoned, whereas refusal to condone the delay would deprive the defendant of an opportunity to contest the suit on merits. Hence, sufficient cause has been made out to condone the delay. Hence, I pass following order-

Order

1. The application is allowed.
2. The delay of 59 days in filing the leave to defend application is hereby condoned.
3. The leave to defend application be taken on record.
4. No order as to costs.

Sd/-

(F.K.Shaikh)

Civil Judge S.D., Latur.

Date :- 08/07/2026.