

Order 07
25.06.25

Today is fixed for passing necessary order for acceptance of written statement filed on 22.11.24. Both parties file haziras.

Now the application dtd 22.11.24 is taken up for passing order. The defendant submits that after receiving a copy on 18.07.2024 he has started gathering copies of necessary documents required for preparing written statement. As the defendant is a senior citizen and got brain stroke in the last year, he took more time than usual to find out those documents as they are too old and some are not found at the first instance, he has gathered them at last. He has further stated that in the month of October the Ld Court was on vacation and he submitted the written statement after the vacation and due to these reasons there is slight delay in filing the written statement. He has also stated that he is much interested to contest the instant suit and there is only 37 days delay calculating from the date of statutory period. So the defendant humbly prays to condone the delay and accept the written statement so that the defendant could contest the suit. In this regard he has referred to the decision in AIR 2005 Supreme Court 2441 where in it has been observed by the Hon'ble Court that it is not mandatory to file WS within 90 days.

Heard Ld. Advocate for the plaintiff also who submits that there are 37 days delay in filing the WS and if it is to be allowed then it should be with cost. In this connection he has referred para 9 page 13 of the same decision submitted by the defendant.

Heard both sides. Perused the materials in record. Considered.

On consideration of the same, I find that there is delay in filing the WS and in Kailash Vs. Nanhku and Ors AIR 2005 Supreme Court 2441 it has been observed by the Hon'ble Court that the court may impose cost for dual purpose : (i) to deter the defendant from seeking any exemption of time just for asking and (ii) to compensate the plaintiff for the delay and inconvenience caused to him.

In view of the above observation made by the Hon'ble Court and under such facts and circumstances of the present case, I am inclined to accept the WS filed by the defendant with cost.

Hence it is

Ordered

that the WS filed by the defendant on 22.11.24 be accepted with cost of Rs. 500/- to the plaintiff.

Fix 31.07.25 for framing of issue.

S/D
Sonia Majumdar

Judge 2nd Bench

S/D
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Judge 2nd Bench