

IN THE COURT OF SMALL CAUSES, MUMBAI
ORDER BELOW EXHIBIT - 19
IN
RAE SUIT NO. 11 of 2024
(CNR NO- MHSCA2-000011-2024)

Hiren Kiritkumar Nayak & Ors. ..Plaintiffs

Vs.

Bhagya Hari & Anr. ..Defendants

Coram : V. G. Upadhye
Judge, C.R. No.17
Date : 27.06.2025.

ORDER:

This is an application filed on behalf of defendant no.2 for setting aside 'exparte order' dated 29.08.2024 passed against him and for condonation of delay 345 days in submitting his written statement. It is contended in the application that, as per the bailiff report he is allegedly served with the suit summons on 18.01.2024. The suit summons is alleged to be accepted by his son. However, his son has not signed the bailiff report. Thereafter, he is served with the summons by substituted mode on 20.09.2024. Thereafter, it took considerable time to collect vital and important documents. On that account, he could not file his written statement within stipulated time. Therefore, the delay occurred in submitting his written statement. The delay is not intentional and it be condoned.

2. The application is opposed by the plaintiff by the plaintiffs by filing reply at Exhibit-20. It is opposed on the ground that, the suit summons was duly served upon the son of the defendant no.2. There is no concrete proof to show that her son

signed the bailiff report. The defendant no.2's casual approach shows that he is only interested in delaying the hearing of the suit.

3. Heard both sides. Perused case record.

4. It is evident from the record that, the suit summons is duly served upon defendant no.2 on 18.01.2024. There is no room of doubt to believe the bailiff report. Even it is belief that, he is served with the suit summons on 20.09.2024, the reason that he took considerable time to collect the important documents, is a vague statement. The present application is moved on 04.02.2025. There was more than sufficient time for defendant no.2 to collect the important documents. Because of casual approach of the defendant no.2 the matter is unnecessarily protracted.

5. Be that as it may, in order to give a fair chance to defendant no.2 to defend the suit in this case, so as to decide this matter on merits and to avoid multiplicity of litigation, I am inclined to pass following order:-

ORDER

The application Exhibit-19 is allowed subject to cost of Rs.3000/- (Rupees Three Thousand only)to be paid to the plaintiffs.

Date: 27.06.2025.

**(V. G. Upadhye)
Judge, C.R.17**