

Ejectment Suit 10 of 2023.  
[ CNR No. WBPS01 -000019 -2023 ]  
Before – Ashutosh Kumar Singh- Ld. Chief Judge.

08.

30-04-2024.

Today is fixed hearing of petition u/s-5 of Limitation Act dt 06-10-2023 filed by the defendant praying for condonation of delay for filing Written Statement.

Both parties file haziras. Defendant files seven original Court deposit challans by phristy. Let the same be kept in the case record.

Parties are found present on call.

The petition dt 06-10-2023 filed by the defendant u/s-5 of Limitation Act praying for condonation of delay for filing Written Statement is taken up for hearing. Heard both sides. Perused the petition as well as materials on record. Considered.

By filing the instant application, defendant has prayed for condonation of delay of 33 days in filing the Written statement on the ground that the defendant is a senior citizen suffering from old age physical ailments and was hospitalized and undergone bed rest for the last 3 to 4 months. In support of his contention, one photocopy of medical certificate is attached with the petition.

At the time of hearing, Ld. Advocate for the defendant relied upon decision reported in 2022(4) I.C.C 104 (S.C) and Civil Appeal No 8089 of 2022 SLP ( Civil ) no 19754 of 2022 and prayed for allowing his petition.

Ld. Advocate for the plaintiff raised objection.

Record reveals that as per bailiff report , summons were received by the defendant on 30-01-2023 and the order sheet goes to show

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that the defendant entered appearance in the suit on 17-02-2023 and the Written statement was filed on 18-07-2023.

So, W/s has been filed by the defendant much beyond the prescribed period of limitation. The grounds for such delay as cited in the petition is various ailments of the defendant due to his old age which is not disputed by the plaintiff. The petition is also supported by affidavit.

Considering such factual aspect of the matter, this Court finds that the petition of the defendant may be allowed for ends of substantial justice, otherwise the defendant will be non-suited. However, the plaintiff should also be compensated with cost .

Accordingly,

it is

Ordered

that the petition u/s-5 of Limitation Act dt 06-10-2023 filed by the defendant praying for condonation of delay for filing Written Statement is hereby allowed on contest but subject to payment of cost of Rs 300/- payable by the defendant to the plaintiff.

W/S filed by the defendant is accepted.

Let the case be **transferred** to the Court of Ld. Judge **4th Bench, Presidency Small Cause Court** for disposal. Parties are directed to appear before the transferee Court on ( **18-06-2024** )

Dictated & corrected  
by me :-

Chief Judge

Chief Judge.  
J.O .Code:- WB 01244.

