

	Spl.C.S. No. 1371/2022 Bajaj VS. Vinky MHNG020065292022
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COMMON ORDER BELOW EXH.97 & 97-A

(Passed on this 19th day of August, 2026)

Perused both application, affidavit filed in support of it and common reply filed vide Exh.98 by the plaintiff. The application Exh.97 is filed on behalf of defendants No.1 to 4 for setting aside no written-statement order passed on 30.09.2024 and for granting permission to file written-statement. It is contended in the application to restore order dated 30.09.2024, but after going through the affidavit filed in support to the application it appears that, defendants No.1 to 4 wants to set aside no W.S. order and to file W.S. on record. The application Exh.97-A filed by defendants No.1 to 4 for condonation of delay in filing application for setting aside no W.S. order. In support of application (Exh.97-A) also affidavit is filed on record by authorized representative of defendants No.1 to 4. The copy of resolution of meeting of Board of Director of defendant No.1 is annexed with affidavit filed in support of application (Exh.97-A). Pushkar Dixit appears to be authorized to sign by defendants No.1 to 4 on their behalf by passing resolution.

2] It is contention of defendants No.1 to 4 that defendant No.1 is company and defendants No.2 to 4 filed their Vakalatnama on 18.12.2023. The application was filed by defendants No.1 to 4 for providing copy of documents by the plaintiff to them. The advocate for plaintiff provided list of documents with copy of plaint on 13.08.2024. Thereafter, suit was fixed on 30.09.2024. Due to unavailability of railway ticket, advocate for defendants No.1 to 4 could not attend the suit on 30.09.2024. The defendants were contacted to their advocate in the

month of July and thereafter, on verifying status of case, the advocate for defendants No.1 to 4 found that suit is still pending and no W.S. order came to be passed on 30.09.2024. The defendants No.1 to 4 could not contacted with their advocate due to paucity of time. The defendants wants to file their W.S. on record and contest the suit. Lastly, defendants prayed to condone the delay in filing application for setting aside no W.S. order and to set aside no W.S. order and grant permission to file W.S.

3] The advocate for plaintiff filed common reply contending that the application filed by defendants No.1 to 4 are not maintainable. No W.S. order came to be passed on 30.09.2024. The present applications are filed after lapse of about one year five months. There is no sufficient cause mentioned in the application for condonation of delay. There is enormous delay for filing applications. The delay has been not properly explained. The defendants are well aware about the pendency of suit. After passing no W.S. order, the plaintiff has led evidence and also filed evidence closed pursis. The defendants are not come before the Court with clean hands. The plaintiff lastly prayed for rejecting both applications.

4] On perusal of record it appears that defendants No.2 to 4 are appeared through their advocate on 18.12.2023. As per contention of the defendants, the advocate for plaintiff provided the copies of document on 13.08.2024. Thereafter, matter was fixed on 30.09.2024. Already matter was fixed after more than 30 days on 30.09.2024. It is contention of advocate for defendants No.1 to 4 that due to unavailability of railway tickets, he could not appeared on 30.09.2024. No W.S. order passed on 30.09.2024 below Exh.1 against defendants No.2 to 4. Thereafter, plaintiff has led evidence by filing affidavit and closed its evidence. The present application are moved by defendants No.1 to 4 on 27.01.2026. It appears

that matter was referred for mediation on 19.07.2025 and the report is received in respect of mediation on 24.11.2025. The defendants No.1 to 4 wants to file their W.S. and contest the suit. It is the contention of defendants that due to paucity of time and there was communication gap between them and their advocate, they could not file application on earlier. Considering the facts and circumstances on record, in the interest of justice it will be just and proper to grant opportunity to defendants No.1 to 4 to file their W.S. by imposing some conditions. No prejudice will be caused to the other side, if the applications are allowed by imposing costs. Hence, I proceed to pass following order :-

Order

- i] Applications are allowed subject to costs of Rs.5000/- to be paid to the plaintiff or deposited in Court, on or before next date.
- ii] Delay is condoned. No written-statement order passed on 30.09.2024 is hereby set aside. Defendants No.1 to 4 shall file their written statement on or before next date.
- iii] If defendants No.1 to 4 failed to comply the order and file their written statement on or before next date, then earlier no W.S. order dated 30.09.2024 will be remain intact.

Nagpur.
Date:-19/08/2026.

(A. J. Fatale)
10th Jt. Civil Judge (Sr.Dn.) &
A.C.J.M., Nagpur.