

**IN THE COURT OF SMALL CAUSES, AT MUMBAI
ORDER BELOW EXHIBIT - 12
IN
R.A.E Suit No.120 of 2023**

1. Mr. Vijay Anant Nagwekar & ors. ..Plaintiffs

V/s.

1.Mrs. Maya Kashinath Kothulkar & ors. ..Defendants

**Coram: R.R.Kale
Judge, Court Room No.14,
Date: 07.07.2023**

ORDER:-

Present suit is filed for recovery of possession under the provisions of Maharashtra Rent Control Act, 1999.

2. Present application is taken out by the defendant No.7 and CA of defendant nos. 2 to 6 for condonation of delay in filing written statement and permit them to file it on record.

3. In brief, it is the contention of the above defendants in their application that, on account of reasons stated in the application they may kindly be permitted to file their written statement on record by condoning the delay caused for it. They further submit that, no prejudice would cause to the plaintiffs if the application is allowed. However, if the application is not allowed, grave injustice will be caused to the present defendants. Contending all these grounds, above defendants have prayed for grant of the application.

5. The plaintiffs have opposed the present application by filing reply at Exh.14 and prayed for rejection of the application. The

plaintiffs in brief submit that, the present application is misconceived , illegal and bad in law and therefore, is liable to be dismissed. These defendants have not shown valid and sufficient cause for condonation of delay. Hence, application may kindly be rejected by imposing compensatory cost on defendants. Contending all these grounds, the plaintiffs have prayed for rejection of the application.

6. From the contents of the application and say filed thereon, following points arose for my determination and I record my findings thereon as under : -

| Sr.No. | Points | Findings |
|--------|---|-----------------------------------|
| 1. | Whether the application is liable to allowed? | .. Yes. |
| 2. | What order? | ..Application is allowed on cost. |

REASONS

As to Point Nos. 1 and 2:

7. Heard respective Ld. advocates on behalf of both the parties at length. The present suit is filed for eviction on the grounds of bonafide requirement.

8. Perused the application and say filed thereon. After perusal of entire application, prima facie reasons shown in the application for condonation of delay in filing written statement appear to be valid and satisfactory . Therefore, considering the nature of suit and reliefs sought by the plaintiffs, an opportunity to contest the suit by taking specific defence needs to be given to the defendants. Moreover, the written statement of above defendants will be helpful for proper and final adjudication of the matter and to decide the real controversy between the parties. No prejudice will be caused to the plaintiffs, if

application is allowed as the suit is not reached at final stage. If application is rejected certainly grave loss and prejudice will be caused to the above defendants. However, considering the delay caused by the above defendants in filing their written statement, cost of Rs.500/- needs to be imposed upon them. It would be just and proper to order to give the said cost to the plaintiffs. Therefore, in view of above all discussion, I answer point no. 1 in affirmative and in answer to point no. 2, the following order will meet the ends of justice:

: ORDER :

1. Application vide Exh. 12 stands allowed subject to cost of Rs. 500/- to be given to the plaintiffs on or before next date .
2. The delay caused for filing written statement by the defendant nos. 2 to 7 on record is hereby condoned and they are permitted to file their written statement on record.

Date : 7th July, 2023.

[R.R.Kale]
Judge,
C.R. No. 14.