

CNR NO. : MHSCA2-000369-2021

IN THE COURT OF SMALL CAUSES MUMBAI

ORDER BELOW EXHIBIT 12

IN

R.A.D. SUIT NO.19 OF 2022

1) Smt. Rukaiay Shariatullah Khan & Ors. ... Plaintiffs

Versus

1) The Hasanabad Premiss Co-operative
Society Ltd. & Anr. ... Defendants

Advocate for the plaintiffs : M. D. Vyas

Advocate for the defendants : A. A. Kocharekar

Coram : Revati M. Kante
Judge, C.R. No.13
Date : 16.06.2022

ORDER :

Authorized signatory of defendant No.1 has filed the present application for condonation of delay which is caused to him for filing written statement on record. It is his contention that the summons was served against him on 24.01.2022. After receiving suit summons, time has lapsed in searching papers and preparing written statement. Delay is not deliberate and not intentional. No prejudice will cause to the plaintiffs, if application is allowed. On the other hand, if it is rejected, grave harm will cause to the defendant No.1. Hence, the application.

2. Plaintiffs have filed their reply on the application itself and submitted that the delay is not explained properly. The defendant No.1 was well aware for the suit dates and service was on time. Hence, delay should not be condoned.

3. Perused the application and say thereon. Heard both sides. It is not disputed that summons is served to the defendant No.1 on 24.01.2022. As per Order 8 Rule 1 of the Code of Civil Procedure, 1908, the defendant has to file his written statement within a period of 30 days. Accordingly, defendant No.1 has to file it's written statement on or before 24.02.2022. The present application along with written statement has been filed on 24.03.2022. It is seen that the written statement has been filed within the period of 90 days. The proviso provided to Rule 1 of Order 8 of the Code of Civil Procedure, 1908 says that if the defendant failed to file written statement within a period of 30 days, he shall be allowed to file the same within the period of 90 days. The delay is satisfactorily explained by the defendant No.1. The plaintiffs have filed present suit for declaration of their tenancy rights and for other reliefs. Considering the nature of suit and reliefs claimed by the plaintiffs, written statement of defendant No.1 is required on record for full and final adjudication of the matter. No prejudice will be caused to the plaintiffs, if application is allowed. On the other hand, if it is

rejected, grave, prejudice will cause to the defendant No.1.
Hence, the following order.

:: ORDER ::

1. Application below Exhibit 12 filed by defendant No.1 is allowed.
2. Delay caused to the defendant No.1 in filing written statement is hereby condoned and permission is granted to the defendant No.1 to file its written statement on record.
- 3 Costs in cause.

Mumbai
Date : 16.06.2022

(Revati M. Kante)
Judge, C.R.No.13