

IN THE COURT OF SMALL CAUSES AT MUMBAI

ORDER BELOW EXH. 25

IN

R. A. D. SUIT No. 294 OF 2024

Ganesh D. Kesarkar

..Plaintiff

Vs.

The Bombay Dyeing & Manufacturing Co. Ltd. & Ors.

..Defendants

Coram : Smita S. Mane, Judge

C. R. No. 22

Date : 14.11.2024

ORAL ORDER -:

1. The defendant No. 6 has moved this application for condonation of delay in filing written statement.

2. It is contended of the defendant that the writ of summons was served on him on 25.04.2024. He is residing at Nasik and due to summer vacation, Advocate was not available therefore, there is delay in filing written statement. The delay is not intentional. Accordingly, he prayed for condonation of delay and taking his written statement on record.

3. The plaintiff by filing his handwritten say resisted the application and prayed for rejection of application.

4. Perused record. Heard both side.

5. On perusal of record it appears that the Advocate for defendant No. 6 waived the service on 25.04.2024. The period of 30 days expired on 24.05.2024. Present application filed on 27.06.2024. There is delay of approximately 33 days in filing written statement. The reason for delay is just & casual. Fair opportunity needs to be given to defendant to contest the suit by filing his written statement. If such opportunity is given by condoning delay, suit will be decided on merits and no serious prejudice will be caused to other side. As per principle of natural justice, no person shall be condemned unheard. At the same time, nominal costs needs to be saddled on defendant for causing delay. Resultantly, I pass the following order.

:- O R D E R :-

1. Application Exh. 25 is allowed, subject to costs of Rs. 100/- (Rupees Hundred only) to be paid to the plaintiff or deposit in Court, on or before next date.
2. After compliance of costs, delay in filing written statement be condoned and written statement of defendant No. 6 be taken on record.

Date : 14.11.2024

(Smita S. Mane)
Judge, C. R. No. 22