

**IN THE COURT OF SMALL CAUSES, AT BOMBAY**  
**ORDER BELOW EXHIBIT 11**  
**IN**  
**R.A.E. Suit No. 2000 OF 2014**

The Cricket Club of India Ltd. ....Plaintiffs

Versus

Indian Bank's Association . .... Defendant.

N. N. Shah : Advocate for Plaintiff.

Dave and Girish & Co. : Advocate for Defendant.

Coram: P. V. Chatur  
Judge  
C.R. No.11  
Date: 02.07.2015

**ORAL ORDER**

1. This is an application for condonation of delay of 35 days in filing the written statement and the same be accepted. It is submitted that the suit summons were received on 13.01.2015. Thereafter, the defendant made inquiry about other premises and the enquiries regarding the various premises of the plaintiff. This took a lot of time particularly in view of various properties of the plaintiff. Therefore it was not possible to prepare and file the

written statement within 30 days from the suit summons.

2. The written statement is now ready and tendered alongwith this application. There was no intention to cause delay. In any event the suit is not ready for hearing and in this circumstances it is necessary, just and proper to condone the delay and to accept the written statement for hearing of the suit on merits and in the interest of justice. If the application is not granted the defendant shall lose its rights of defense and its premises without defense. It shall suffer irreparable loss, harm, damage and injury which cannot be compensated in the terms of money. Hence, this application.

3. The learned counsel of the plaintiff objected the condonation of delay on the ground that the defendant was making inquiries of the various premises of the plaintiff cannot be a ground or valid reason for delay in filing the written statement. In fact the plaintiff should have approached the court and asked for time. There is a prescribed period provided for filing written statement after service of the summons. No sufficient cause is made out to show cause for delay. In fact there is deliberate delay on the part of defendant. Hence, he prayed to reject the application with cost.

4. I have heard the learned counsels of parties. Perused the record.

5. The learned counsel of the defendant relied upon the decision of Honourable Bombay High Court in *Anil Kushabrao Phutane Vs. Madhukar Kushabrao Phutane* reported in 2006(1) Bom.C.R., 786. I have gone through this decision, wherein it is observed that “the defendant has to file written statement within 30 days from the date of service of summons. However, the proviso further entitles the defendant to file written statement if he has failed to file the same within the said period of 30 days and in that case, he shall be allowed to file the same on such other day as may be specified by the Court for the reasons to be recorded in writing, but which shall not be later than 90 days from the date of service of summons”.

7. In the case in hand the suit summons were served on the defendant on 13.01.2015. The plaintiff has filed this suit on the ground of reasonable and bonafide requirement of the suit premises amongst other grounds for claim of the possession. Certainly there shall be an issue of hardships and the defendant ought to have made out defense, accordingly. Therefore, the reason of inquiry for other premises of the plaintiff is sufficient ground for delay in filing the written statement in this matter. Moreover, the written statement is filed within the outer limit of period of 90 days. Taking into consideration the aforesaid facts and circumstances this application deserves to be allowed. Hence, I pass the following order.

**: ORDER :**

1. Application Ex. 11 is allowed.
2. The written statement be read and recorded.

Mumbai  
Date: 02.07.2015

(P.V. Chatur)  
Judge  
C.R.No.11

Order dictated on :- 02.7.2015  
Order checked & signed on :- 03.7.2015