

MHTH070050462023

**Order Below Exh. 14 and 15**(Passed on 11th day of December, 2024)

Respondent filed the applications for setting aside no written statement order and accept her written statement. The counsel for respondent submitted that due to summer vacation unable to handover necessary information and document to her counsel. Therefore, respondent failed to file her written statement within statutory time. Delay in filing written statement is not deliberate. The subject matter of petition is for dissolution of marriage. Therefore, opportunity is required to be given to participate in the proceeding. Considering, the above facts and reasons no written statement order passed against him may kindly be set aside and application may kindly be allowed and written statement may kindly be accepted.

2. Petitioner filed say at Exh. 25 and 26 and strongly opposed the application and submit that there is no sufficient cause for non-filing of written statement within prescribed time and prayed to reject the applications with heavy cost.

3. As per Order VIII Rule 1 of Code of Civil Procedure the defendant shall file written statement within thirty days from the date of service of summons. Provided that where the defendant fails

to file the written statement within the said period of thirty days, he shall be allowed to file the same on such other day as may be specified by the Court for reasons to be recorded in writing, but it shall not later on ninety days from the date of service of summons.

4. In case of Zolba V/s Keshao (AIR 2008 Supreme Court, 2099), the Hon'ble Supreme Court held that the provisions including proviso to Order VIII Rule 1 of the Code of Civil Procedure are not mandatory but directory. Delay can be condoned and written statement can be accepted even after expiry of ninety days if exceptional circumstances have been made out. It is further held that no party should ordinarily be denied the opportunity of participating in the process of justice dispensation.

5. In this matter the respondent failed to file her written statement within ninety days from the date of receipt of the summons. Present proceeding is in respect of dissolution of marriage. Therefore, participation of respondent is very essential. No prejudice would be caused to petitioner if written statement is taken on record. Therefore, application deserve to be allowed and accordingly, written statement of respondent is hereby accepted by condoning the delay. Written statement of respondent be taken on record.

Date: 11.12.2024

(A.S. Lanjewar)
Civil Judge Sr. Dn., Kalyan.