

APPLICATION NO.4630 OF 2016
IN C.S.NO.1170 of 2008

PUSHPA SATHYANARAYANA, J.

The above application is filed by the applicant / defendant to condone the delay of 2741 days in filing written statement.

2. The suit is filed for mandatory injunction directing the applicant/defendant to execute the sale deed in favour of the plaintiff by accepting the balance sale consideration and to hand over the vacant possession of the suit property.

3. It is stated in the affidavit filed in support of the application that the defendant has entered into a sale agreement dated 10.08.2001 with one Kalander Naina Mohamed. The said Kalander Naina Mohammed filed a suit in C.S.No.486 of 2003 on the file of this Court and the same was settled on 01.02.2016 before the Lok Adalat. For which, there was prolonged discussion and negotiations for entering into a compromise with the earlier agreement holders. The respondent /

plaintiff was also aware of the earlier suit. Though the applicant / defendant made an attempt to settle the litigation through the mediators and was also ready to repay the advance amount received from the plaintiff with interest, the plaintiff refused to do the same. Hence, there is a delay in filing the written statement.

4. At this juncture, it is relevant to note that the Honourable Supreme Court has reiterated that a liberal pragmatic and justice oriented approach should be given in dealing with the application for condonation of delay. It is the substantial justice which is paramount and pivotal that the technical considerations should not be given unnecessary emphasis. Of course, lack of *bona fides* imputable to a party seeking condonation of delay is relevant and significant fact.

5. This Court, having satisfied with the reasons stated in the affidavit filed in support of this application, is inclined to condone the delay, but however on condition.

6. Accordingly, the delay is condoned and the application is ordered, on payment of Rs.5,000/- (Rupees Five Thousand Only) to the Chief Justice Relief Fund, within a period of two weeks from the date of receipt of a copy of this order.

14 / 09 / 2016

srn

PUSHPA SATHYANARAYANA, J.

srn

APPLICATION NO.4630 OF 2016
IN C.S.NO.1170 of 2008

14 / 09 / 2016
(2/2)