

A.Nos. 4535 and 5077 of 2017

IN

C.S.No. 405 of 2016

C.V.KARTHIKEYAN ,J.

A.No. 4535 of 2017 has been filed seeking to condone the delay of 270 days in filing the written statement of the third defendant.

2. A.No. 5077 of 2017 has been filed to condone the delay of 331 days in filing the written statement of the third defendant.

3. In the affidavit filed in support of A.No. 4535 of 2017, the fourth defendant had stated that the delay has arisen since there was a lack of communication between the fourth defendant and his counsel. It has been stated that the delay is neither willful nor wanton. It therefore prays that the delay should be condoned.

4. In the affidavit filed in support of A.No. 5077 of 2017, the third defendant had stated that the defendant immediately arranged to file written statement but the old case papers were not available in the Office and had to be collected from the previous counsel. Moreover, the previous Managing Director was transferred and the applicant was appointed as Managing Director/Special

Officer. In these circumstances, there was a delay in filing the written statement.

C.V.KARTHIKEYAN .J.

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5. The respondent/plaintiff has filed counter, in which it has been stated that the reason given for the delay cannot be accepted and that the delay is deliberate. It had been stated that the applications should be dismissed.

6. The plaint had been filed seeking compensation. The plaint had been instituted after getting permission to institute the suit as an indigent person. Both the third and fourth defendants have raised issues to be decided at the time of main trial. Instead of awarding costs at this stage, it is held that if the plaintiff is able to establish that the compensation is to be paid to him, at that time, the delay in filing the written statement of the defendants 3 and 4 shall also be computed while drafting the decree with respect to costs.

7. On these terms, these applications are allowed and the delays are condoned and the written statements are taken on file. Post the matter "for framing of issues" on 23.11.2017.

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07.11.2017

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