

Application No.5337 of 2019 in
C.S.No.116 of 2019
Krishnan Ramasamy, J.,

This Application has been filed to condone the delay of 105 days in filing the written statement in the above suit.

2.Heard both sides and perused the affidavit and petition.

3. The learned counsel appearing for the Applicant/third defendant would submit that from the date of service of suit summons, the actual delay in filing the written statement is only 91 days. Further, this Court ordered to serve the suit summon against the third defendant Mrs.V.Rajammal in whose name the present suit has been filed by the Plaintiff. However, the suit summon was received by Mr.M.Bose, who is one of the employees of the applicant. According to the applicant/third defendant, the said M.Bose is not an authorised person to receive the tapals of the Applicant. It is further stated that though he received the suit summon on 19.02.2019, the same was brought into the knowledge of the applicant/third defendant only on 25.02.2019. Therefore, he submitted that this Court ordered the service of suit summon through Court, only against the third defendant/Managing Partner Mrs.V.Rajammal, whereas the same was served and received by one Mr.M.Bose, who is one the employees of the applicant company and therefore the date on which the applicant

came to the knowledge of the service of suit summons shall be taken into consideration for the purpose of calculation in filing the written statement. The learned Counsel for the Applicant/third defendant also filed an Affidavit of Mr.M.Bose dated 14.08.2019, wherein it was stated that he has received the suit summons served against the third defendant on 19.02.2019 and he is not authorised representative to receive the tapals on behalf of the third defendant partnership firm. He further stated that he has informed the applicant about the receipt of the summons only on 25.02.2019. Therefore, the learned counsel for the Applicant/third defendant would submit that the actual delay is only 85 days and prays this Court to condone the same.

4. The learned counsel appearing on behalf of the respondents has stated no objection to allow this Application.

5. Considering the aforesaid facts and circumstances and also considering the no objection having been stated by the learned counsel for the respondents, this application is allowed and the delay is condoned subject to payment of costs of Rs.5,000/- (Rupees Five Thousand only) to the Chief Justice Relief Fund on or before 30.08.2019.

6. Post on 30.08.2019, under the caption 'For Compliance'

16.08.2019

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KRISHNAN RAMASAMY, J

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