



**A.No.6250 of 2019**  
**in C.S. No.290 of 2016**

WEB COPY

**A.A.NAKKIRAN, J.**

This petition has been filed by the applicant/3rd defendant to condone the delay of 1079 days in filing the written statement.

2. Heard both sides.

3. The learned counsel for the applicant/3rd defendant submitted that after filing of the suit, summons was served on the applicant on 05.07.2016. But, the 2nd defendant, who is the father of the applicant died on 24.07.2016. The said information along with the details of the legal heirs was brought to the knowledge of the plaintiffs by memo dated 22.08.2016. But, the plaintiff had filed an application to condone the delay in filing the application to bring on record the legal heirs of the 2nd defendant herein, only in the year 2019. Meanwhile, the 1st defendant also died on 13.10.2018. The delay in filing the written statement is also because of the said delay on the part of the plaintiffs to bring on the legal heir of the deceased second defendant. Since the plaint was not amended, the applicant could not file his written statement. The amended copy of plaint after bringing the legal heirs on record, who died on 24.07.2016 was served only on 09.07.2019. Hence, there is 1079 days of delay in filing the written statement. The non filing of the written statement is neither willful nor wanton, but due to the reasons stated above. Hence, he prays to allow this application.

4. The learned counsel appearing for the respondents 1 & 2 /plaintiffs has strongly opposed to allow this application.



WEB COPY



**A.A.NAKKIRAN, J.**

uma

5. Having been satisfied with the reasons stated in the affidavit filed in support of the application, and in the interest of justice, by giving one more opportunity to the applicant/3rd defendant to contest his case on merits, this Court is inclined to allow this application by imposing cost.

6. Accordingly, this application is allowed on condition that the applicant/3rd defendant pays a sum of **Rs.3,000/- (*Rupees Two Thousand only*)** as cost, to the **Varadappa Naidu, Home Orphanage, 479 P + F4W, Chellappa Colony, Sanjeevarayanpet, Tondiarpet, Chennai – 600 021 (Contact No.044 – 2595 – 1521)**. In the event of failure on the part of the applicant in paying the said amount within the stipulated time, this application shall stand dismissed automatically without any further reference to this Court.

7. Post the matter on 10.08.2022.

uma

**02.08.2022**

**A.No.6250 of 2019  
in CS. No.290 of 2016**