



A. No.4822 of 2021

in

T.O.S.No.65 of 2016

V.BHAVANI SUBBAROYAN., J.

This application has been filed to condone the delay of 1713 days in filing the Written Statement in the above suit in T.O.S. No.65 of 2016.

2. Heard, the learned counsel appearing for the applicant/defendant and perused the affidavit in support of the application to condone the delay of 1713 days wherein it is stated that after receipt of notice in O.P.No.100 of 2012, the applicant has filed his version in the form of affidavit while filing of caveat repudiating the contentions of the 1st respondent/plaintiff. After the O.P. No.100 of 2012 has been converted into T.O.S No.65 of 2016, the applicant, even summons was received on 06.07.2017, was under bona-fide impression that as he has already filed affidavit along with Caveat in O.P. No.100 of 2012, there is no necessity to file a separate Written Statement for T.O.S No.65 of 2016 and the counsel for the applicant has not intimated in this regard due to pandemic situation prevailed in our country. Only after becoming normalcy in the situation of Covid-19, the applicant was intimated



by his counsel that it is necessary to file Written statement separately, within six months from the date of receipt of the summons in the TOS, since the Original Petition has been converted into a Testamentary suit even though the affidavit was filed along with Caveat in Original Petition. In the said circumstances, the delay in filing the written statement is neither willful nor wonton, but due to the aforesaid bona-fide circumstances, and unless the delay in filing the written statement is condoned, the applicant would be greatly prejudiced and put to heavy and irreparable loss. Hence he seeks this Court to condone the delay of 1713 days in filing the Written Statement in T.O.S.No.65 of 2016.

3. On the contrary, the learned counsel for the respondent/plaintiff opposed to allow the application stating that the reasons stated by the applicant are a farce and not genuine.

4. Considering the submissions made on either side and prevailing pandemic situation for the last two years, this Court is inclined to allow this application on payment of costs. Accordingly, this application is allowed on



payment of costs of Rs.2,000/- to the Cancer Institute, Adayar on or before 03.03.2022, failing which the application would be stand dismissed automatically without any further reference to this Court.

5. Registry is directed to post the matter on 03.03.2022 for reporting compliance.

11.02.2022

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