

**A.No.6806 of 2023 in C.S.No.371 of 2019****N.Sathish Kumar, J.**

This application has been filed to condone the delay of 632 days in filing the written statement and adoption memo in the suit.

2. The plaintiff has filed the suit claiming damage of Rs.1,10,00,000/- for publishing defamatory articles as against the defendants and for permanent injunction to restrain the defendants from reprinting, republishing, circulating in the magazine 'Junior Vikatan'. The learned counsel appearing for the applicants submitted that since there was delay in collecting the documents and giving instructions to the counsel to prepare written statement, the same could not be filed. Thereafter, as COVID pandemic intervened from March 2020, the applicants were not able to meet their counsel for filing written statement. Hence, the defendants were set exparte for non filing of the written statement. The delay is neither willful nor wanton but due to the the above bonafide reasons. Hence, this application to condone the delay in filing the application.

The learned counsel appearing for the respondent vehemently opposed this application on the ground that there is a huge delay of 632 days



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and the same cannot be condoned as per the whims and fancies of the applicants/defendants. The delay has not been properly explained and each and every day delay has to be explained and no satisfactory reason has been given to condone such an abnormal delay. The applicants have stated that due to COVID pandemic they are are not able to contact their counsel and they are not able to collect the documents. Such a ground cannot be accepted. Even after the lapse of the limitation period extended by the Hounourable Supreme Court, written statement has not been filed. If at all this application is allowed, it has to be allowed with huge costs.

Though there is a huge delay, considering intervention of COVID pandemic and in order to give a fair opportunity to the defendants to defend their case, the delay will be condoned on condition that the applicants/defendants pay a sum of Rs.10,000/- [Rupees ten thousand only] to the Cancer Institute, Adyar, Chennai on or before 08.01.2024. Post for reporting compliance on 09.01.2024.

22.12.2023

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