



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**APPLICATION IN EP NO. 33 OF 2024
IN EP/1/2024**

NILESH DNYANDEV LANKE
VERSUS
DR. SUJAY RADHAKRISHNA VIKHE-PATIL

Mr. Pramod N. Patil a/w. Mr. Rahul B. Temak a/w. Mr. Shyamsundar Solanke, Advocate for the applicant.
Mr. V.D. Hon, Sr. Advocate a/w. Mr. Subham S. Kote i/b. Mr. A.B. Hon, Advocate for the respondent.

CORAM : KISHORE C. SANT, J.
DATE : 06.05.2025

PC :-

01. Heard learned Advocate Mr. Patil for the applicant and learned Sr. Advocate Mr. Hon for the respondent in the application.

02. This application is filed seeking condonation of delay of 55 days caused in filing written statement (Exh.12). It is stated that this Court issued summons on 05.08.2024. Same was served upon the present applicant on 22.08.2024. The summons was made returnable on 02.09.2024. The time to file written statement thus started running from 02.09.2024. It is stated that the applicant could not file written statement immediately on receipt of summons within 30 days, as the applicant required to collect certain documents necessary for filing reply/written statement. The petition itself ran into more than 1400 pages. So, some time was taken even to prepare the written statement. Thereafter, the applications were filed and those were allowed by this

Court granting time to file written statement. In any case the written statement is filed on 85th day after delay of 55 days, considering the limitation. Learned Advocate Mr. Patil vehemently argued that in view of section 87 of the Representation of Peoples Act, the provisions of Civil Procedure Code are applicable as nearly as possible, Order 8 Rule 1 of the CPC is applicable as well. He submits that the Court has a discretion to take on record written statement even after 30 days. In exceptional cases the written statement can be accepted even after a period of 90 days. For that purpose he relies upon judgment in the case of **Kailash Vs. Nanhku and Others reported in (2005) 4 SCC 480**. He further submits that the written statement can be accepted even after 90 days in cases where application is filed for rejection of plaint under Order 7 Rule 11 of the CPC by relying upon judgment reported in **R.K. Roja Vs. U.S. Rayudu & Anr., reported in (2016) 14 SCC 275**. He, thus, submits that the written statement be accepted by condoning the delay.

03. Learned Sr. Advocate Mr. Hon vehemently opposes the application. He fairly concedes that this Court has discretion to condone the delay. His main argument is about sufficiency of reasons given for condonation of delay. He submits that no sufficient reason is given for condonation of delay. The reasons given are not proper. The delay is not for any bona fide reason. He submits that on one hand it is submitted that some time was taken for collecting documents from the Authorities, however, particulars are not given. On the other hand, he has filed application under Order 7 Rule 11 of the CPC, which negatives the reasons stated in the application. He thus prayed for rejection of the application and not to accept the written statement.

04. Considering the arguments and judgment in the case of **Kailas (supra)**, this Court finds that there is discretion vested in this Court. The reasons stated in the application cannot be said to be unreasonable. In any case, the written statement is filed within 90 days and it is also exhibited as Exh 12.

05. Considering all the above, this Court is inclined to allow the application. The application Exh. 11 stands allowed. The written statement Exh. 12 is taken on record. The application, accordingly, stands allowed and disposed off.

06. Place the matter on 13.06.2025 at 2.30 p.m. for deciding application under Order 7 Rule 11 of CPC.

[KISHORE C. SANT, J.]