



A.No.3378 of 2024
in C.S.No.768 of 2016

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P.B.BALAJI, J.

This application has been filed to condone the delay of 1700 days in filing the written statement of the 1st defendant in C.S.No.768 of 2016.

2.The 1st respondent/plaintiff is also filed a counter affidavit.

3.I have heard Mr.R.Jayaprakash, learned counsel for the applicant and Mr.S.Rameshkumar, learned counsel for the respondents.

4.The learned counsel for the applicant submits that the suit summons were served only on 07.09.2019 and consequently, the delay has been correctly calculated. He further submits that the present counsel had filed change of vakalat pending the proceedings and therefore, he was under the bonafide impression that the written statement has already been filed. However, it subsequently came to the light that the written statement has not been filed. Hence, immediately this application was filed along with the written statement.

5.Per contra, the learned counsel for the respondents would submit that the evidence has already been concluded and the matter is now posted for arguments and at that stage, this application has been filed, that too, projecting a lesser number of days delay. According to the 1st respondent/plaintiff, the delay is more than 2500 days.

6.I have carefully considered the rival submissions advanced by the



learned counsel on either side.

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7.The suit is for specific performance and the 1st defendant is the owner of the property and therefore, in the interest of justice, it is expedite that the 1st defendant is afforded an opportunity to contest the claim on merits. No prejudice would be caused to the 1st respondent/plaintiff if he gets decree after contest. Therefore, in the interest of justice, this application is ordered and the delay in filing the written statement is condoned and the written statement is ordered to be received.

8.Post the matter on 26.07.2024 for filing draft issues.

24.07.2024

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