



A.No.6809 of 2023

Application No.6809 of 2023
in
C.S.(Comm.Div.)No.166 of 2023

ABDUL QUDDHOSE, J.

This application has been filed seeking to condone the delay of 89 days in filing the written statement.

2. In the affidavit filed in support of this application, the applicant/defendant has stated that only due to the fact that an amendment application was earlier filed by the plaintiff, which was opposed by the defendant, there was a delay in filing the written statement. According to the applicant/defendant, the delay is neither willful nor wanton, but, solely due to the reasons contained in the affidavit filed in support of this application.

3. A counter affidavit has also been filed by the respondent/plaintiff, opposing the allowing of this application, as, according to them, the delay is beyond the maximum period of 120 days to file the written statement. According to them, the delay is not 89 days,



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as disclosed in the affidavit filed in support of this application and is much more than that.

4. The learned counsel for the applicant/defendant has placed before this Court a Memo of Calculation dated 02.02.2024 and is reproduced hereunder:-

Summons served on the sole defendant	- 14.07.2023
Last date for filing written statement	- 13.08.2023
Application No.6809 of 2023 to condone the delay of 89 days in filing the written statement.	
August 2023	- 18 days (14.08.2023 to 31.08.2023)
September 2023	- 30 days
October 2023	- 31 days
November 2023	- 10 days
Totally	– 89 days

5. However, the learned counsel for the respondent/plaintiff would reiterate that the delay is more than 89 days and therefore, since the delay is beyond the maximum period of 120 days, the delay cannot be condoned by this Court.



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6. After giving due consideration to the Memo of calculation dated 02.02.2024 filed by the learned counsel for the applicant/defendant, which has been extracted supra, this Court is convinced that the delay in filing the written statement by the defendant is only 89 days and sufficient cause has also been shown by the applicant/defendant for condoning the delay, as they have stated that only due to the filing of amendment application by the plaintiff, which has been opposed by the defendant, there was a delay in filing the written statement.

7. For the foregoing reasons, this application is allowed as prayed for and the written statement filed by the defendant is taken on record. The learned counsel for the plaintiff seeks time to file a reply statement to the written statement. Post the matter on 16.02.2024 for filing reply statement by the plaintiff.

02.02.2024

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