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**MASTER
08.06.2026**

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**A.No.1026 of 2026
in
C.S.No.419 of 2011**



ORDER

1. This application is filed to condone the delay of 18 days in re-presenting the written statement filed by the defendants.

2. The applicants counsel submitted that pursuant to the Order of the Hon'ble High Court dated 12.11.2025 the written statement of the defendants were filed in the Registry on the same day vide S.R No.42999 of 2025 which has been returned on 19.12.2025 by the Registry and since the junior counsel who was handling the case felt sick due to which the return could not be collected from the Registry within time and consequently the defects could not be rectified and complied within the stipulated time for return compliance. Thus, there was a delay of 18 days in re-presenting the written statement.

3. The learned counsel for the respondent argued that the delay is nothing but dilatory tactics of the applicants and the applicants having forfeited their rights by their own deliberate inaction, cannot now be permitted to indirectly achieve what they are otherwise not entitled to do directly. He further argued that the conduct of the applicants has repeatedly cause severe prejudice to the respondent by continuously obstructing and delaying the respondent from enjoying the fruits of the decree obtained in its favour. The applicants have consistently adopted dilatory tactics with the effect of prolonging the litigation and frustrating the enforcement of the decree. It is further argued that the applicants having earlier allowed the suit to proceed exparte having forfeited their right to file the written statement as a matter of course and have not sort or obtained the



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necessary leave of the competent court in accordance with law. Further, in view of the revision of pecuniary jurisdiction the present suit, upon restoration, would lie before the competent court having the requisite jurisdiction and therefore the written statement cannot be taken on record by this court and so the application is liable to be dismissed. The other arguments of the learned counsel for the respondent are pertaining to the merits of the case and also regarding the condonation of delay in filing the set aside petition and about the petition to set aside the exparte decree are not discussed here because they have already been raised and decided by the Hon'ble High Court and moreover, this is an application to condone the delay in re-presentation of the written statement only.

4. This court gave its consideration to both sides arguments and also perused the available materials on record.

5. It is pertinent to note that the Hon'ble High Court has allowed A.No.3256 of 2025 on 02.09.2025 filed by the applicants/defendants to condone the delay of 3000 days in filing the petition to set aside the decree dated 10.04.2017 and also has allowed A.No.4663 of 2025 on 22.10.2025 filed by the applicants/defendants seeking to set aside the exparte decree dated 10.04.2017 passed in C.S No.419 of 2011. Further, by allowing the application to set aside the exparte decree dated 10.04.2017 on 12.11.2025 the Hon'ble High Court has adjourned the matter to be listed after 2 weeks for filing of written statement. It is seen that the written statement of the defendants were filed on the same day i.e on 12.11.2025 and the same was returned by the Registry for rectification of certain defects on 19.12.2025. One of the main contentions raised by the respondent is that the applicants having earlier allowed the suit to proceed exparte, having forfeited to file their written statement as a matter of course, has not obtained necessary leave of the competent court in accordance with law to file the written statement. This contention



of the respondent is not acceptable for the reason no proof has been filed by the respondent showing that he had challenged the adjudication of the Hon'ble High Court dated 12.11.2025 wherein the defendants were directed to file written statement.

6. The condonation of delay in re-presentation is purely a matter between the court and the applicant. Other side has no locus standi to interfere and object. The respondent in this suit objects this application not on the merits but only on technicalities. The other objection raised by the respondent is that no valid reasons has been given for condoning the delay. The applicants has categorically stated that their junior counsel fell sick and so there was a delay in taking the return papers and re-presenting the same.

7. No suit or application shall be dismissed on mere technicality. The ultimate aim is to render justice and the suit shall be disposed of on merits only. Further, considering the fact that innocent litigant should not be put at sufferance for the fault committed by his advocate and also taking note of the fact that the delay is only in re-presentation and not in filing the written statement, this court is inclined to allow this application. No prejudice will be caused to the plaintiff side by allowing this application.

Accordingly, this application is allowed. No cost.

MASTER