

IN THE COURT OF CIVIL JUDGE (SR. DIV)-IV
LAKHISARAI

T.S. NO.- 165/2021

CNR No.-BRLA03-000250-2021

IN THE MATTER OF:

NARMADESHWAR SINGH

.....PLAINTIFF

v.

STATE OF BIHAR & ORS.

.....DEFENDANTS

PRESENT P.O.- KUMARI JYOTSNA

CIVIL JUDGE (SR. DIV.)-IV

ORDER

30.05.2025

Present application dated 21.02.2025 has been filed by defendant no. 3 Bhagirath Singh. Ld. Counsel on his behalf has submitted that he was directed to file written statement (hereinafter W.S.) and the next date was fixed on 22.01.2025. But this defendant has filed his W.S. on 21.02.2025. It is the basic principle of law that W.S. must be filed within 30 days from the date of appearance of defendant in the suit. Defendant no. 3 has prepared his written

statement within time but due to busy schedule of court-work, his Advocate-clerk could not file it on the fixed date. So, the Court ordered to initiate ex-parte proceeding against him on 03.11.2023 in accordance with law. As such, written statement of the defendant no. 3 should be accepted in the eye of law, hence, prayer has been made to allow this application.

Learned counsel for plaintiff has objected on this application dt. 21.02.2025 vide his re-joinder dt. 23.05.2025 and submitted that application filed by defendant no. 3 is not maintainable and fit to be rejected. He further submitted that this defendant did not appear till 03.11.2023 even after due service of summons, registered summons and publication of Gazette against him. So, the Court after confirming the due service of Gazette publication against him, ordered for ex-parte proceeding against him. Therefore, this application is not permissible in the eye of law and fit to be rejected. Hence, it has been prayed to rejected this application.

Heard the Ld. Counsel for both parties and perused the case record. Perusal of case record shows that defendant no. 3 have filed his written statement on the date of his first appearance i.e. 21.02.2025 along with fresh Vakalatnama, haziri and this present application to accept his W.S. But the Court has already ordered to initiate ex-parte proceeding against him on 03.11.2023 according to law. *It is*

settled principle of law that lis pending before a court must be decided on its merit so as to completely adjudicate the right of the parties. As per the facts and circumstances of this case, it appears that there is a delay on the part of the defendant no. 3 in his appearance for filing his W.S. rather the Court finds just and proper in the interest of Justice that a chance be given to the defendant no.3 to put his contention through his W.S. for adjudication of the aforesaid Title suit on merit. So far as his contention in the content of written statement is concerned, it will be considered at the time of final argument.

Hence, the application dated 21.02.2025 filed by defendant no. 3 is hereby allowed and his written statement filed on 21.02.2025 is hereby accepted after recall of the Order dt. 03.11.2023 on cost of Rs. Two thousand (2000/--) only to be given in the hands of plaintiff. This instant order will come into force only after payment of cost by the applicant as directed. This application dt. 21.02.2025 is hereby disposed of, accordingly.

Since the defendant no.2 Krishna Nandan Bind has already filed his respective W.S. on the date of his appearance i.e. 31.08.2022, hence his W.S. filed within time is hereby accepted by the Court on 30.05.2025.

The proceeding under Order VIII Rule 10 has already been initiated against defendant no.1 The State Of

Bihar on 22.01.2025.

List the matter on 16.06.2025 for compliance of the order of payment of cost by defendant no.3 and further, for the proceeding of S. 89, C.P.C.


Kymari Jyotsna 30/05/25
(KUMARI JYOTSNA)
CIVIL JUDGE (SR. DIV.)-IV
LAKHISARAI