

**In the Court of Sub Judge I
Madhubani
P.S.89/2017 C.I.S. No P.S.-36/2017
Rajesh Kumar Singh v/s Rama Nand Singh & others**

ORDER

26-08-2019 Today date is fixed for order. Attendance has been filed on behalf of both parties though their learned counsels.

A petition has been filed on behalf of plaintiff on 09.08.2018 . Copy of this petition has been served to learned lawyer for the defendants . By this petition, the learned lawyer for the plaintiff has stated that in this suit all defendants appeared on 20.12.2017 but defendant no 1 filed his written statement on 09.05.2018 after expiry of 90 days . He prayed that the written statement of defendant no 1 may not be accepted.

The learned counsel for defendant no 1 oppose this petition, by filing reply to this petition on 20.09.2018. He submitted that for filing of the written statement he filed time petition in the court and the time has been granted by the court and he has not been debarred from filing written statement. He prayed to reject the abovesaid petition.

A petition has been filed on behalf of defendant no 1 on 22.07.2019 Copy of this petition has been served to the other side. By this petition, the learned lawyer for the defendant no 1 has stated that due to some family problems he could not file his written statement within time rather he filed his written statement on 09.05.2018 .He prayers to accept his written statement.

The learned counsel for plaintiff oppose this petition, by filing reply to

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this petition on 28.02.2019. He prayed to reject the abovesaid petition.

Having heard both the parties and after perusal of the record , it transpires that the defendant no 1 appeared on 20.12.2017 after issuing summons alongwith paper publication and he filed his written statement on 09.05.2018 after expiry of 90 days but he has not been debarred from filing of written statement. From perusal of **O8R1 C.P.C.** it transpires that defendant should present his written statement within 30days from the service of summons and this period can be extended up to 90 days by the court. Its a statutory provision that written statement should be filed within 90 days from the date of service of summons but in this suit defendant no 1 filed his written statement after expiry of 90 days. Moreover it is well settled law that the party must be given opportunity to contest the suit for just and proper adjudication of the case on merit. Accordingly, in the light of abovesaid facts, circumstances and in the interest of justice, the written statement which has been filed by defendant no 1 on dated 09.05.2018 is hereby accepted with the cost of Rs. 500/-.

Accordingly, the petition dated 09.08.2018 filed by plaintiff and petition dated 22.07.2019 filed by defendant no 1 are disposed of.

Case is fixed on 26.09.2019 for further proceeding.

(Typed & Corrected by me)

Rakesh Kumar Tiwari

Subjudge I
Madhubani