

Motor Accident Claim Petition No. 19/2016(Rahul Gulve and another V/s Vikas Ware and another)(C.N.R. - MHAH07 - 000040 - 2016)Order below application at Exh. No. 20

1. The present application is filed by the respondent No. 2 seeking permission of the Court to file the written-statement after setting-aside "No written-statement" order passed against it. It is contended by the respondent No. 2 that on 03/01/2017, the respondent No. 2 had filed an application seeking time for filing written-statement on the ground that the respondent No. 2 could not file the written-statement, because of non-signing of the written-statement by the authorized representative of the respondent No. 2. However, this Court had rejected the said application filed by the respondent No. 2 and passed "No written-statement" order against the respondent No. 2. The respondent No. 2 now intends to file the written-statement and therefore, the respondent No. 2 may be allowed to file the written-statement after setting-aside "No written-statement" order passed against it.

2. The petitioner has filed his reply and opposed the present application. It is submitted by the petitioner that the respondent was served with notice of the present petition on 10/02/2016. Therefore, the respondent No. 2 was required to file the written-statement within a statutory period of limitation as prescribed under the Code of Civil Procedure. The respondent No. 2 has proposed to file the written-statement after expiry of period of almost 1 year from the date of service of notice on it. The respondent No. 2 has also not filed an

affidavit in support of the present application. Therefore, the petitioner has sought for rejection of the present application.

3. I have heard the learned counsel for the petitioner. The learned counsel for the respondent No. 2 failed to advance any argument.

4. I have perused the record. It is manifest from the record that on 03/01/2017, the respondent No. 2 had filed an application at Exh. No. 19 seeking time for filing the written-statement. However, the said application was rejected by this Court. Subsequently, on the same date, this Court had passed "No written-statement" order against the respondent No. 2 below Exh. No. 1. As rightly submitted by the petitioner, the respondent No. 2 was required to file the written-statement within a statutory period of either 30 or 90 days from the date of service of notice as prescribed under Order VIII of the Code of Civil Procedure. However, the respondent No. 2 had failed to file the written-statement within such statutory period and therefore, this Court had rejected the application filed by the respondent No. 2 and passed "No written-statement" order against the respondent No. 2. However, having regard to the contentions of the respondent No. 2 and for proper adjudication of the matter on merits, I find that if the respondent No. 2 is allowed to file the written-statement on payment of certain costs to the petitioner, no prejudice will be caused to the petitioner and the matter will also be decided on merits. In the circumstances, I find that the present application deserves to be allowed. Hence, I pass the following order.

Order

1. The present application is allowed.
2. The "No written-statement" order passed against the respondent No. 2 on 03/01/2017 below Exh. No. 1 is hereby set-aside and the respondent No. 2 is hereby permitted to file the written-statement on payment of costs of Rs. 1,000/- to the petitioner on or before next date of hearing.

Date : 16/12/2019.

(R.J. Pawar)
Ad-hoc District Judge - 1,
Sangamner.