

Spl. C.S.No. 30/2018  
Vimal. -Vs- Santosh.  
CNR No.MHJN020005522018

**Order below Exh.14**

This is an application filed by defendant for setting aside no written statement order and permission to file written statement on record. Read application and say filed. Perused record and heard.

2- According to defendant, due to ailment of his father and son he could not attend the matter and consequently no written statement order was passed against him. There is no intentional delay on his part. Hence, requested to allow the application. On the other hand, plaintiff has objected to the application. It is her contention that, reason mentioned in application is not just and proper. There is no evidence to support the version of defendant. Application lacks details of alleged ailment and hence urged to reject the application.

3- It is a matter of record that, suit is filed for specific performance of contract. Record shows that, defendant was served on 09.03.2018, but did not file written statement and hence no written statement order was passed on 26.07.2018. There is no presumption that delay is deliberate or intentional. Defendant has filed written statement along with instant application which shows his ready and willingness to participate in the proceeding. There is no reason to discard or disbelieve the ground mentioned in application. Rejection of application will amount to non suit the defendant without deciding matter on merit. Inconvenience caused to the other side can be

compensated by awarding costs. Considering the reason mentioned in application and to give fair opportunity to the defendant to participate in the proceeding effectively to decide matter on merit and also in the interest of justice application deserves to be allowed. Hence, following order :-

### **Order**

1. Application is allowed subject of costs of Rs.500/- to the plaintiff.
2. On payment of costs no written statement order dated 26.07.2018 is set aside and defendant is permitted to file written statement on record.

Sd/-  
( V. M. Mankhair )  
7<sup>th</sup> Jt.Civil Judge (S.D.)  
Jalna.

Date :- 09.01.2019

### **CERTIFICATE**

I affirm that the contents of this PDF file are word to word as per original Judgment/Order.

Name of Steno : A.I. Shaikh  
Name of Court : 7<sup>th</sup> Jt.Civil Court (S.D.),Jalna  
Date of PDF : 09.01.2019.

Sd/-  
(A.I. Shaikh)  
Steno