

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

**Order below Exh. 16**

This is an application filed by defendant for permission to deposit the costs as per order below Exh. 14. Read application and say filed. Perused record and heard both sides.

2. According to defendant, his application for permission to file written statement and say was allowed at Exh. 14 on 9.1.2019 subject to costs of Rs. 500/-. However, an amount of costs was not deposited. Now, he is ready to deposit said amount. If the permission is not granted, he will suffer irreparable loss and hence, requested to allow the application.

3. On the other hand, plaintiff has objected to the application. It is her contention that despite sufficient opportunity defendant failed to comply the order passed below Exh. 14. Application is filed only to prolong the matter. Application is not tenable and hence, urged to reject the same.

4. It is a matter of record that suit is filed for specific performance of contract. On appearing in proceeding, defendant did not file written statement and say and consequently, no written statement and say order was passed on 26.7.2018. Thereafter, as per order below Exh. 14 dated 9.1.2019 said order was set aside subject to costs of Rs. 500/-. Defendant did not obey said order and resultantly, no written statement order came to be passed on 22.2.2019. Thereafter, instant application is filed on 27.8.2019. Application is silent about the reason for non-compliance of order passed below Exh. 14. However, suit is in respect of immovable property. Already an opportunity to file defence

was given to the defendant. But for non-payment of costs an effect of said order was taken away. In order to give one more fair opportunity to the defendant to participate in suit to decide matter on merit and also in the interest of justice it will be just and proper to allow the application. Inconvenience caused to the plaintiff can be compensated by awarding costs. Hence, following order :-

### Order

1. Application is allowed subject to costs of Rs. 1500/- (Rupees one thousand five hundred only) to the plaintiff within 3 weeks from the date of order.
2. On payment of costs the no written statement order passed below Exh. 1 dated 22.2.2019 is set aside and defendant is permitted to comply order passed below Exh. 14.

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

Date :- 7.12.2019

### CERTIFICATE

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

Name of Steno : *Shaikh A.I.*  
Date of PDF : 7.12.2019.

Sd/-  
(*Shaikh A.I.*)  
Steno