

**R.C.S. No.6/2014**  
**Ranjendra Vs. Rajeshwar**

**ORDER BELOW EXH.22**

(Passed on 21<sup>st</sup> September, 2018)

1] Plaintiff filed present application whereby he asked to set aside without written statement (in short w.s.) order and allow him to file w.s. to the counter claim of defendant. According to him, he was under misconception that, suit for posted for evidence. So, he could not file w.s. to the counter claim. Failure to file w.s. resulted through wrong impression that, suit being posted for evidence. Allowing him for filing w.s. is necessary for proper adjudication of controversy.

2] Defendant vehemently resisted the application. He alleged that, plaintiff was having knowledge of counter claim of defendant on the very same day of its filing i.e. on 30/04/2014. However, he did not take pain to file w.s. thereto. No satisfactory explanation pertains to failure has been put fourth. Hence, he urged for rejection of application.

3] Perused application and say on it. Heard, Ld. Counsel for both the sides at length.

4] It appears that, defendant has filed his w.s. cum counter claim on dated 30/04/2014. Thereafter, upon several dates his appearance recorded on roznama. However, he failed to file w.s. to

counter claim of plaintiff. It is plea of plaintiff that, owing to wrong impression that, suit was posted for evidence he could not file w.s. to counter claim. No doubt plaintiff failed to file w.s. to counter claim within stipulated period despite remaining present before Court. Audi altram palram is fundamental principal of jurisprudence. In order to enable parties for access right of audience, there must be enough opportunity to place pleadings before court. Parties should have afford reasonable opportunity to put fourth their pleadings. It is always desirable to adjudicate controversy on merit. Discarding opportunity for furnishing pleadings at the threshold of technicality will certainly that, controversy defeat principal of natural justice. Hence, it will just and desirable to allow the plaintiff to file written statement to the counter claim.

Hence, following order.

**ORDER**

1. Application is allowed. Subject to cost of Rs.3,000/-.
2. No w.s. order dated 16/09/2014 hereby set aside.
3. Plaintiff hereby allowed to file written statement to counter claim of defendant.
4. Plaintiff to comply the order by next date.

**Date : 21/09/2018**

( Anup R. Abhyankar )  
**Civil Judge Junior Division, Katol.**

**CERTIFICATE**

I affirm that the contents of order are word to word as per original order.

C.D.Gahukar  
Stenographer(Lr.Gr.)

Case argued on	:	21/09/2018
Order dictated on	:	21/09/2018
Transcription ready on	:	21/09/2018
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