

**ORDER BELOW EXH. 21**

*(Order passed on 25<sup>th</sup> day of September, 2018)*

[01] Present application is moved by defendant no.1 for setting aside no W.S. order and for permission to file her written statement on record. Perused application and the say. Heard both sides. It has been contended by the applicant that due to her illness she couldn't appoint her counsel and thereby failed to submit her written statement within stipulated time as per law. It is averred that the delay caused for filing written statement is not deliberate and intentional one. The defendant no.1 prayed for allowing the application.

[02] On the other hand plaintiff by filing her reply over leaf has strongly opposed the application. It has been contended that the reasons shown by defendant no.1 for not filing W.S. within time are not convincing and genuine one. It is averred that the defendant no.1 was duty bound to submit her W.S. within stipulated time as per law. Thus, plaintiff prayed for rejection of the application.

[03] On perusal of record, it seems that the defendant no.1 has received the suit summons on 15.11.2017. Thus, the defendant no.1 was duty bound to submit her written statement within stipulated time of 90 days from the date of service. However, as defendant no.1 failed to submit her W.S. within time and hence, no

W.S. order came to be passed against her. During argument it has been submitted that initially the matter was pending before C.J.S.D. Nagpur and thereafter it has been transferred to this court. It is argued that due to aforesaid reasons defendant no.1 failed to submit her W.S. within time. As argued by the counsel for defendant no.1 when the matter was pending for appearance, in the month of December 2017 same has been transferred to newly created C.J.S.D. Court Umrer.

[04] Now, by way of this application defendant no.1 wants to contest the matter on merit. The matter relates to immovable property. Valuable rights of defendant no.1 are seen to be involved. Considering the facts and circumstances, the opportunity to participate in the litigation needs to be given to the defendant no.1. No doubt there is delay on the part of defendant no.1, however mere delay is not the ground to reject the application. Thus, considering the circumstances on the record the application needs to be allowed. Hence, I pass the following order.

**ORDER**

[01] Application (Exh.21) is hereby allowed subject to costs of Rs.500/- payable to the plaintiff.

[02] On payment of costs, written statement submitted by the defendant no.1 be taken on record.

Date : 25.09.2018

[ S.K.Fokmare ]  
Civil Judge Senior Division  
Umrer.

**Certificate**

"I affirm that the contents of this P.D.F. file order are word to word same as per original Order".

Name of Stenographer : **Mr. Mahendranath D. Nagpure**  
**Stenographer (Lr.Gr.)**

Court Name : Civil Judge Senior Division, Umrer

Date : 25/09/2018