

CNR No.MHNG100014152017
Spl. Civil Suit No.93/2017
(Old Spl. Civil Suit No.177/2015)
Chandrakant Vs. Tulsidas+1

ORDER BELOW EXH. 18

(Order passed on 23rd day of October, 2018)

[01] Present application is moved by defendant no.1 for setting aside no W.S. order dt.09.07.2015 and permission to file his written statement on record. Perused application and the say given at Exh.19. Heard both sides. It has been contended by the applicant that he resides at Bramhapuri and as his mobile was switched off, therefore, his counsel couldn't contact him and hence he failed to submit his 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 his reply vide Exh.19 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 his W.S. within stipulated time as per law. Thus, plaintiff prayed for rejection of the application.

[03] On perusal of record, it seems that as per R.P.A.D. the summons is seen to be served to defendant no.1 on 01.04.2015. The defendant no.1 appeared in the matter on 10.04.2015. Thus,

defendant no.1 was duty bound to submit his W.S. within stipulated period of 90 days from the date of service. However, he failed to submit his W.S. within time.

[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 on record, 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.18) 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 : 23.10.2018

[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
Order dictated on : 23/10/2018
Transcription ready on : 23/10/2018
Order checked and signed on : 23/10/2018

/home/ubuntu/1-C.J.S.D./ORDERS/English Orders in Civil Cases/Permission to file written statement/

DISTRICT COURT
NAGPUR