

MHNG110008822017



ORDER BELOW EXHIBIT No.30
(PASSED ON 28th November 2019)

1. This application is filed by defendant No.15 for setting aside no written statement order dated 13.12.2018. Present defendant No.15 contended that he is under impression that the matter between plaintiff and the present defendant is likely to be settled, therefore, he was not prepared himself to file his written statement. Defendant No. 15 relied on the words of the defendant No.1 that this matter will get settled. Now, the present defendant is intended to context the suit. Therefore, he prayed for setting aside the no written statement order dated 13.12.2018.

2. The application is resisted by the plaintiff by his say on the overleaf of said application. Plaintiff contended that till today present defendant had not filed a copy of his written statements. Present application is not maintainable in absence of sufficient cause. Plaintiff prayed for rejection of the application.

3. Heard learned advocates appearing for rival parties.

4. The points for determination along with my findings thereon are as follows.

POINTS

FINDINGS.

(i) Whether there is a sufficient cause for the present defendant for setting no written statement order dated 13.12.2018 ?

Yes.

(ii) What order ?

Application is allowed.

REASONS

AS TO POINT NO.1 :

5. This is a suit for partition, separate possession, declaration and permanent injunction in relation to immovable properties situated at Mouza-Titur, Tah. Kuhi, Dist. Nagpur and Mouza-Adka, Tah. Kamptee, Dist. Nagpur. The suit is filed on 14.12.2017, therefore, liberal view have to be taken while considering this application. The reasons assigned appears to be satisfactory as without preparation and the instructions and relevant documents it was not possible to the ld. Advocate for the defendant No.15 to file written statement and answer the claim of the plaintiff. Therefore, in my view it will be in the interest of justice to grant an opportunity to the present defendant by setting aside the no written statement order dated 13.12.2018. At the same time, the plaintiff has to be compensated for the delay caused. Hence, the point No. 1 is answered in the 'Affirmative' and in response to point No. 2, I proceed to pass the following order.

ORDER

1. The application (Exh. No.30) is allowed subject to payment of costs of Rs. 500/- (Rs. Five hundred only) to be paid by the defendant No.15 to the plaintiff on or before next date or deposit in court.
2. The order of the no written statement passed against the defendant No.15 dated 13.12.2018 is hereby set aside.
3. The written statement filed by defendant No.15 be taken on record after the payment of costs.

Dt. 28th November 2019.

(D. U. Rajput)
Civil Judge, Junior Division,
Kuhi.

CERTIFICATE

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

- a) Name of the Stenographer : Suresh Shankarrao Koramkar.
b) Court : Civil Judge, Jr. Dn. Kuhi.

DISTRICT COURT
NAGPUR