

MHNG140000292024



RCS NO.1/2024  
Vacchalabai Vs. Chandrabhaga

**ORDER PASSED BELOW EXH.16**  
**(PASSED ON 06/03/2025)**

- 1) The defendant No.1 filed the instant application for setting-aside no W.S. Order and for grant of permission to file written statement. The defendant No.1 submitted that on 21.03.2024, the defendant No.2 took the defendant No.1 with him in the Court and moved the application for grant of time to engage counsel at Exh.06.
- 2) Next date was 30.06.2024, on that day the defendant No.2 appeared through the advocate and filed Vakalatnama at Exh.7 of defendant No.2 only. The defendant No.1 did not appear on that day and not put her thumb impression on the vakalatnama. The counsel for the defendant No.2 Tanveer Singh who have filed one memo of appearance for defendant No.1, who has not instructed so to the said counsel. The counsel have moved an application for grant of time to file written statement at Exh.10 but it also doesn't bear the thumb impression of the defendant No.1 The defendant No.1 officially received the suit summons on 19.06.2024.
- 3) Thereafter, the defendant No.1 met with her counsel immediately and filed vakalatnama at Exh.12 on 20.06.2024 and

addressed at Exh.13 and sought time to file written statement at Exh.14. On the same date the counsel for the defendant No.1 moved an application for grant of time to file written statement. He had not appeared to file that application for defendant No.1. The said application came to be rejected on the ground that the defendant failed to file W.S. within 90 days. The application at Exh.14 also came to be rejected as already no W.S. Order was passed.

4) On 27.06.2024 the defendant again moved an application at Exh.15 and sought time, but the application came to be rejected. On next date 11.07.2024, the defendant again moved an application and sought time to file the written statement at Exh.16, the said application was also rejected and order came to be passed to proceed the matter without written statement of the defendant No.1 and the matter was posted for the evidence of the plaintiff on 01.08.2024.

5) The defendant No.1 had not received the suit summons on 19.06.2024, she is an illeterate lady and she had no knowledge about the court proceedings. The defendant No.2 took her to the Court. In-fact the defendant No.1 received the suit summons on 21.06.2024 officially. Accordingly, she appeared before the Court. Hence, conscious appearance is for the first time should be treated as 20.06.2024 and to save her from irreperable loss, allow the application and set-aside no W.s. Order passed against the defendant No.1.

6) The plaintiff filed her say and strongly opposed the application with submission that the application filed by the defendant No.1 is nothing but an attempt to cover her own statement. The defendant unnecessarily playing same game without admitting fact that the defendant has filed application below Exh.6 and later on avoided to attend the Court. The suit has to be decided on merit hence, the application may kindly be granted or rejected, looking after the submissions with heavy cost of Rs.10,000/- (Rupees Ten Thousand Only). As the defendants deliberately passed time to file written statement.

7) Heard Learned Advocate for the Defendant No.1 and Learned Advocate for the plaintiff at length.

8) The record shows that the defendant No.1 was present on 21.03.2024 before the Court and she moved an application alongwith the defendant No.1 which is at Exh.6 and sought time to engage the counsel. The defendant No.1 submitted that she is illeterate lady, she had no knowledge about the court proceedings. The suit summons was not officially served on her. Thereafter, on 19.06.2024, the suit summons was duly served on defendant No.1, therefore, she immediately contacted with her Learned Advocate and filed vakalatnama and residential address. The contention of the defendant No.1 itself shows that she had not knowledge about the instant suit filed against her. Even after the appearance before the Court on due

service of suit summons, the defendant No.1 failed to file her written statement within a stipulated time. She would have to file a written statement within 30 days from the receipt of the suit summons, but sought time on the ground that she could not collect the relevant document for the preparation of written statement. The defendant No.1 moved the present application after 2 months from the date of receipt of summons.

9) To decide the matter on merits and real controversy between the parties the written statement of the defendant is necessary on record. At the same time the delay caused in the proceeding on the part of the defendant No.1 cannot be ignored. Hence, I pass the following Order :-

### **ORDER**

1. Application Exh.16 is hereby allowed subject to cost of Rs.200/- (Rupees Two Hundred Only).
2. No W.S. Order passed against the defendant No.1 on 11.07.2024 and 24.07.2024 is hereby set-aside. On depositing the cost the written statement of the defendant No.1 be accepted.
3. Cost is condition precedent

Parseoni  
Dated :- 06/03/2025

(G.O. Wankhade)  
Civil Judge Junior Division, Parseoni