

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.1582 of 2016

Asma Khatoon wife of Md. Sadique Mansoori, resident of village-Fauladpur,
P.O.- Fauladpur, P.S.- Shakurabad, District- Jehanabad.

... .. Petitioner

Versus

1. Qashimuddin and Anr son of Late Md. Basheruddin, village/P.O.- Fauladpur,
P.S.- Shakurabad, District- Jehanabad.

... .. Plaintiff-Respondent

2. Bijay Choudhary son of Bindey Choudhary, resident of village- Fauladpur,
P.O.- Fauladpur, P.S.- Shakurabad, District- Jehanabad.

... ..Defendant- Respondent

Appearance :

For the Appellant/s : Mr.Indu Shekhar Dwivedi, Advocate

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 18-07-2019

Heard learned counsel for the petitioner.

2. Despite valid service of notice, the plaintiff-respondent has neither appeared in person nor through Vakalatnama.

3. This application under Article 227 of the Constitution of India has been filed by the petitioner for quashing the order dated 13.05.2016 passed by the learned Munsif, Jehanabad in Title Suit No. 45 of 2015 whereby the written statement filed by the petitioner has been rejected.

4. Learned counsel appearing for the petitioner



submitted that the petitioner being a lady aged eighty years could not file the written statement in time. She is ready to compensate the plaintiff-respondent by paying reasonable cost for the delay caused in filing the written statement. He submitted that if the written statement filed by the petitioner is not accepted, the same would cause irreparable loss to the petitioner and would occasion in failure of justice.

5. On perusal of the order impugned, I find that the petitioner, who is defendant no.1 in Title Suit No.45 of 2015, had entered into appearance on 18.05.2015 after receipt of summons. She was granted time for filing the written statement, but she failed to file her written statement. Vide order dated 01.12.2015 she was debarred from filing the written statement. Subsequently, on 20.04.2016 she filed her written statement, but the same was rejected by the learned Munsif, Jehanabad.

6. Keeping in mind the old age of the petitioner as also the fact that the plaintiff-respondent has chosen not to contest the matter, the impugned order dated 13.05.2016 is set aside subject to deposit of cost of Rs.2,500/- (rupees two thousand five hundred) within six weeks from today before the court below, which shall be paid to the plaintiff respondent. On fulfilling the above condition, the court below shall take the



written statement on record and proceed with the matter.

7. The application stands allowed.

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.07.2019
Transmission Date	

