

**ORDER BELOW EXH. 12 IN SPL.C.S. No. 1/2018**

1. Present application is filed for setting aside exparte order dtd. 05.07.2019. It is submitted by defendant No. 1 that summons were served upon him but he could not contact his advocate for his appearance because of family problems and assurance of defendant No. 3. Despite of assurance from defendant No. 3, he did not inform to this defendant. Thus, suit came to be proceeded exparte against him. He submits that he is adopting written statement of defendant No. 3 as his written statement. As matter pertains to immovable property, this application be considered and exparte order be set aside. Plaintiff submits that defendant No. 1 was served on 18.03.2019 and exparte order was passed against him on 05.07.2019. Non-appearance due to family problems in not explained. What kinds of family problem is not mentioned. Only bare statement is made. Relying upon defendant No. 3 cannot be ground for setting aside order against defendant No. 1. Both defendants are joining hands. Hence, present application be rejected with costs.

2. As per mandate of law, written statement must be filed within 30 days after service of summons. Summons were served on 18.03.2019 but defendant failed to appear. Therefore, exparte order was passed against him i.e. near about 110 days after service of summons. Ample opportunities were given to defendant No. 1 by extending time. No W.S. order was passed against him after 110 days. The reason mentioned in application about family problems are not supported by any submission. Moreover, reliance on defendant No. 3 cannot be a ground for setting aside exparte order against defendant No. 1 as summons were served upon them separately. The

reasons mentioned in the application are not sufficient to set aside exparte order, despite of filing adoption pursis in regard to W.S. filed by defendant No. 3 be treated as W.S. of defendant No. 1, order of exparte cannot be set aside. Therefore, application is rejected.

Date : 27.09.2019

(N. V. Bansal)  
10<sup>th</sup> Jt. Civil Judge – S.D. Aurangabad

**CERTIFICATE**

I affirm that the contents of this P.D.F. file Judgment are same, word to word, as per the original Judgment.

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|---------------------------------------------|---|---------------------------------------|
| Name of the Stenographer                    | : | S. K. Tripure                         |
| Court                                       | : | 10 <sup>th</sup> Jt. CJSD, Aurangabad |
| Date                                        | : | 27.09.2019                            |
| Judgment signed by the presiding officer on | : | 27.09.2019                            |
| Judgment uploaded on                        | : | 30.09.2019                            |