

Money Suit. 1/18

Order No. 12 date:02/07/19

Today is fixed for hearing of the petn. U/o 9 r 7 of cp.c filed by the defdt. no. 3.

A written objection against such application has been filed by the plaintiff today. The defdt. no. 3 has also filed a petn. Today praying for acceptance of W/S. The said petn. Filed by the defdt. no. 3 on 19/03/19 is taken up for hearing in presence of ld. Lawyers for both sides.

IT is submitted by the lawyer for the defdt. no. 3 that the defdt. no. 3 is an aged person suffering from illness and that owing to some official work he could not be present on 03/11/18 and the suit proceed ex parte against him. It is further prayed that he has at present filed his W/S and be permitted to contest the suit. Ld. Lawyer for the plaintiff on the other hand raised objection and drew attention of this court to order no. 5, dated; 29/09/18 wherefrom it is apparent that the ld. Adv. Appearing for Defdt. Npo. 1. & 2 has given an undertaking to file the v.nama for defdt. no. 3 on the very next date and it was upon his failure to do so, that the suit proceeded ex parte against the defdt. no. 3.

Having perused the case record it is trite that an undertaking was filed for filing V.nama on behalf of Defdt. no. 3, however for the sake of proper and complete adjudication, I consider it proper to allow the prayer of the defdt. And permit him to contest the suit. At the same time, keeping in mind that plaintiff ought not to be prejudiced I also consider it proper to impose cost of Rs. 500/- upon the defdt. no. 3 and the W/S shall be accepted subject to payment of cost by the defdt. Npo. 3.

Fix 29/07/19 for payment of Cost of Rs. 500 and acceptance of W.S

sd/-

Civil Judge, (Sr. Divn)
Kaimpong