

IN THE COURT OF CIVIL JUDGE (JR. DIV.), 1ST COURT, ARAMBAGH

(Present: Smt. Sweta Srivastava)

Mat. 10 / 2018

(CIS Reg. No. 01 / 2019)

(CNR No. WBHGOF – 000007 – 2019)

Order no. 08 dated 06.09.2019.

Today is fixed for – (1) exparte hearing of the suit, and (2) for hearing of applications dated 17.08.2019 filed by respondent by way of put up.

Hazira is filed by both sides and are represented by their respective Ld Counsels.

Ld Counsel for the Respondent move the applications dated 17.08.2019 and submits that due to medical reasons the respondent could not appear or contest the suit, and relies upon photocopies of some medical documents filed in support, and thus pray for vacating exparte order and accepting the WS filed by respondent. He submits that the case is not maintainable in law and thus, an opportunity be provided to them to contest the suit.

Ld Counsel for the petitioner submits that the medical documents filed by the respondent cannot be relied upon and that necessary orders may be passed.

Heard. Perused.

Considered.

The respondent claims to have medical reasons for failure to file WS within time. Now, from photocopy of medical reports, it is not established that the respondent had any grave reasons that precluded her from filing WS. Moreover the reports are dated in May 2019 whereas the respondent still had prayed for adjournment on 19.06.2019 and again on 29.07.2019, on which this court noted expiry of statutory period to file WS, and proceeded exparte.

Now, in order to have comprehensive litigations to settle the dispute between the parties once & for all, and in the interest of natural justice and considerate of the decisions laid by Honb'le Courts that the provisions of O. 8 R. 1 CPC are directory in nature and not mandatory, I am inclined to allow the prayers as below.

Hence it is

ORDERED

That the application filed on 17.08.2019 by respondent for vacating the exparte order is considered and allowed on contest and with costs of Rs. 1000/- payable to the petitioner. Note.

The respondent is permitted to contest the case upon payment of such costs.

The WS by the respondent is accepted subject to payment of aforesaid costs.

Fix 30.10.2019 for framing of issues. Payment of costs by respondent in the meantime.

Typed by me.

Sd/-

Civil Judge (Jr. Div.), 1st Court, Arambagh

Sd/-

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