

**Basant Kumar Keshari Vs. Vinod Kumar Keshari and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/522897](http://sooperkanoon.com/522897)

**Court :** Jharkhand

**Decided On :** Oct-16-2008

**Reported in :** [2008(4)JCR590(Jhr)]

**Judge :** R.K. Merathia, J.

**Appellant :** Basant Kumar Keshari

**Respondent :** Vinod Kumar Keshari and ors.

**Disposition :** Petition allowed

**Judgement :**

ORDER

**R.K. Merathia, J.**

1. This writ petition is filed for quashing the order dated 27.2.2008 and also the order dated 19.6.2007 passed by the Sub-Judge I, Garhwa in Partition Suit No. 20 of 2006 refusing to accept the written statement filed by the petitioner on 20.6.2007.

2. Mr. V.P. Singh, learned senior counsel appearing for the petitioner submitted that time for filing written statement was granted upto 19.6.2007, but the same could be filed on 20.6.2007 and therefore, the same should have been accepted.

3. Mr. Jai Prakash, learned Counsel appearing on behalf of the respondents supported the impugned orders and submitted that the petitioner received summons in the month of November 2006, but he chose to file vakalatnama after six months. Time for filing written statement was granted by way of last chance up to 19.6.2007 and accordingly, on 19.6.2007 order was passed debarring him from filing written statement and therefore, filing of written statement on the next date i.e., 20.6.2007 was of no consequence. He further submitted that issues were framed on 27.6.2007 and evidence started on 19.7.2007. He further submitted that false statements were made by the petitioner in the petition before the Court below.

4. After hearing the parties and perusing the records, it appears that the petitioner has been trying to delay the disposal of the suit. However, I am inclined to give one chance to the petitioner in the interest of justice.

5. Accordingly, the impugned orders dated 27.2.2008 and 19.6.2007 are set aside and the written statement filed by the petitioner on 20.6.2007 is accepted. The trial Court will now frame issues afresh and proceed with the suit. However, this order is subject to deposit of cost of Rs. 2500/- in the Court below within two weeks from the opening of the civil Court, which the other side will be entitled to withdraw.

6. With the above observations and directions, this writ petition is disposed of.