

Regular Civil Suit No. 591/2022
CNR:MHPA02-002887-2022



Order Below Exh. 14

Shaikh Waseem Vs. Commissioner

Read the application and say filed by the plaintiff. Perused record. Heard learned counsels appearing on behalf of both the parties.

2] This is a suit for the relief of perpetual injunction wherein application for setting aside exparte order against the defendant is filed. It is submitted on behalf of the defendant that, the defendant is statutory body and works for the benefit of public at large. The defendant is working under the different departments therefore for obtaining sanction for appearance before this Hon'ble court much time was spent. Further, there is no any ill intention for non appearance before this Hon'ble Court. Specific procedure is required as defendant is a institution and therefore defendant was unable to appear before this Hon'ble Court on fixed date. The defendant is a institution and their participation in adjudication of the case is required. Accordingly, in view of order passed below Exh. 01 on 14/02/2023, the present suit proceeded exparte against the defendant. The defendant will suffer irreparable loss, if he is not permitted to file written statement on record. Hence, the present application.

3] By filing say on the overleaf of this application, the plaintiff resisted the application. It is submitted that, after issue notice, from 21/12/2022 the defendant intentionally avoided to remain present before the Court and hence, he prayed to reject the application.

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4] Heard the learned advocates for both the parties. Perused the matter on record. In view of contentions of the defendant, there is a possibility that, it could not appear before the Court and file its written statement on record due to lack of knowledge of the present suit against it. Further on the perusal of matter on record it appears that, defendant had sufficient cause which prevented it from appearing before the Court and filing written statement on record within stipulated time. It is significant to note that, the question of landed property is involved in this matter. Considering the nature of suit, satisfactory grounds in the application and in the interest of justice, it would be worthwhile to allow the application filed by defendant for the purpose of determining the real question in controversy between the parties. Hence, the order.

ORDER

- 1] Application (Exh.14) is allowed.
- 2] Exparte order against the defendant passed below Exh. 01 on 14/02/2023 is hereby set aside.
- 3] The defendant is allowed to file written statement on record subject to payment of costs of Rs. 200/- payable to the plaintiff.

Date : 27/09/2023

(Smt. S. N. Hurgat)
Joint Civil Judge Junior Division,
Parbhani