

**IN THE COURT OF VI ADDL. DISTRICT & SESSIONS
JUDGE, BENGALURU RURAL DISTRICT,
BENGALURU**

Dated this the 11th day of April, 2023

PRESENT

Sri. Ravindra R. B.A.L., LL.M.
VI Addl. District & Sessions Judge,
Bengaluru Rural District, Bengaluru.

R.A. No.48/2019

Appellants: Smt. N. Vasantha & another

V/s

Respondents : Smt. Sharadamma & others

I.A.

Applicants : Smt. Subbalakshmi & 5 others

V/s

Opponent : Smt. N. Vasantha & another.

== ==

By Sri. Chandraiah, Adv., for Appellants/Opponents.
By Sri. H. Rajanna, Advocate for Respondent no.3 to
8/Applicants

== ==

**ORDERS ON I.A. FILED BY THE RESPONDENT
NO.3 TO 8 U/O 9 RULE 7 R/W SEC. 151 OF CPC.**

The respondents no.3 to 8 have filed the instant application praying the court to set aside the exparte order passed against them and permit them to contest the case on merits.

2. The appellants have resisted the said application by filing detailed objections.

3. Heard the arguments of the counsel for the appellants and respondent no.3 to 8.

4. The following points arise for my consideration:

1) Whether the I.A. filed by the respondent no.3 to 8 U/o 9 Rule 7 R/w section 151 of CPC deserves to be allowed?

2) What order ?

5. My answers to the above points are as under:

Point No.1: In the Affirmative

Point No.2: As per final order, for the following-

REASONS

6. **POINT NO. 1** :- The respondents no.3 to 8 have filed the instant application seeking this court to set aside the exparte order passed against them and permit them to contest the case on merits. In the affidavit accompanying the said application, it has been contended that the appellants took steps against the respondent no.3 to 8 through paper publication. They were not aware of the present appeal filed by the appellants. Recently, they came to know about the present appeal. After enquiring, they came to know that the respondents no.3 to 8 are placed exparte in the case. Hence, they are filing the instant application to recall the exparte order passed against them and permit them to contest the case on merits.

7. The respondents have resisted the said application by filing the objections. It is the contention of the appellants that after filing of the appeal, the appellants took steps to the said respondents both through court and RPAD. But the said respondents intentionally avoided to receive the said notice. Left with no other option, the appellants have taken paper publication against the said respondents. The said

respondents were watching the proceedings without appearing before the court. Now, when the property is acquired by the KIADB, the respondents have come up with the false application to claim the compensation.

8. Perusal of the application filed by the respondents reveal that the reason given by respondents no.3 to 8 for not appearing before the court appears to be just, acceptable and reasonable. Technicalities should not come in way of dispensation of justice. As the appellants will be having their right of audience, they will not be put to irreparable loss or injury in the event of allowing this application and providing an opportunity to the respondent no.3 to 8 to contest the case on merits. On other hand, if the application is not condoned, respondents no.3 to 8 are going to lose their legal right to contest the case on merits and they will not be in a position to put forth their case before the Court. Their valuable rights would be defeated. The merits of appeal is not the issue at this stage but a party should not suffer only on technical ground. In the facts and circumstances made out, I hold that, application deserves to be allowed. Hence, this point is answered in the **Affirmative**.

9. **POINT NO.2-** In view of the above discussion, I proceed to pass the following:

ORDER

The I.A filed by the respondents no.3 to 8 U/Order 9 Rule 7 R/w Sec. 151 of CPC is hereby allowed.

Consequently, the respondents no.3 to 8 are hereby permitted to contest the case on merits.

(Typed to my dictation by Stenographer directly on Computer, corrected by me and then pronounced in the open Court on this the 11th Day of April, 2023)

(Ravindra R)

VI Addl. District & Sessions Judge,
Bengaluru Rural District, Bengaluru.

Order pronounced in open court vide
Separate order sheet for the
following:

ORDER

The I.A filed by the respondents
no.3 to 8 U/Order 9 Rule 7 R/w Sec.
151 of CPC is hereby allowed.

Consequently, the respondents no.3
to 8 are hereby permitted to contest
the case on merits.

VI ADJ