

ORDERS ON IA NO. 5

This application is filed by the defendant No. 1 to 4 at the stage of plaintiff evidence. The present application is filed under Order 9 rule 7 r/w Section 151 of CPC, seeking to set aside the ex-parte order passed against the defendant No.1 to 4.

2. In support of the present application, learned AGP has filed the memo of facts submitting that she had no instructions to appear for the defendant No.1 to 4 and as such they could not appear before the Court on the previous date of hearing and thus they are placed ex-parte. Now they having intention to contest the above suit, they are putting their appearance through their learned Counsel. If the above application is not allowed, then they will be put to hardship and injustice. On these averments, learned AGP has sought for allowing the application.

3. Learned counsel for plaintiffs has filed his statement of objections to the present application contending that the present application is belated and filed only to drag the proceedings. No reasons are assigned in support fo the present application and no documents are produced by the defendants in support of their contention. There are no good and proper reasons put forth in support of the present application and thus the present application being devoid of merits required to be rejected.

4. Having heard the arguments addressed by both side, this Court has perused the entire materials on record.

5. Now the following points do arise for consideration of present application:

1) Whether the defendant No.1 to 4 have made out sufficient grounds to set aside ex-parte order passed against them?

2) What order?

6. The answers of this Court on the above points are as follows:

Point No.1: **In Affirmative.**

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

REASONS

7. Point No.1: In the above suit filed for bare injunction, the defendant No.1 to 4 have maintained the above application seeking to recall the order placing them as ex-parte. Herein the present case, though the defendant No.1 to 4 are placed ex-parte on 03.04.2024, they have filed the present application on 09.09.2024. If the nature of present suit is considered, the say of these defendants would very much require for just and final disposal of the suit. If the defendants are denied the opportunity to contest the suit, it not only cause injustice to them but also lead for multiplicity of proceedings. Therefore, this Court of consideration to allow the present application subject to costs. Hence, Point No.1 is answered in **Affirmative.**

8. Point No.2: In view of the findings recorded on above point No.1, this Court deems it fit to allow the above application on costs. Accordingly the following:

ORDER

IA No.V filed by the Defendant No.1 to 4 under Order 9 rule 7 of CPC is hereby allowed.

Ex-parte order dated 03.04.2024 passed against the defendant No.1 to 4 is hereby set-aside.

For hearing on IA No.2 by: 21.11.2024.

Sd/-

(Vishwanath.A)
C/c Addl. Civil Judge & JMFC
Mudigere.