

ORDERS ON I.A.No.7

The Counsel for Defendant No.2 has filed the present I.A.No.7 under Order 9 Rule 7 read with Sec. 151 of CPC, praying to set aside the Ex-parte Order passed against him, in the present matter, in the interest of Justice and Equity.

In the Affidavit appended to the said Application, the Defendant No.2 has sworn on oath, stating that, this Court was issued summons to him, due to his ill-health and due to lack of knowledge, he was not able to appoint advocate on his behalf to defend the case as on first hearing date. Hence, this Court had placed him exparte. He has a right over the Suit Property and he is interested person in respect of the the Suit Property. If the Application is allowed, no hardship will be cause to the other side. If the Application is not allowed, he will be put to great hardship and loss. Hence, the present Application.

On the other hand, the Plaintiff Counsel has submitted that said I.A.No.7 may be allowed.

Heard both the Counsels. Perused the materials available on record.

It is to be seen that summons was served on the Defendant No.2. However, after service of summons, he has not appeared before this Court and hence, were placed ex-parte. Now, Defendant No.2 prays to set aside the said Ex-Parte Order and permit him to come on record. Further, the Counsel for Plaintiff has submitted that the said I.A.No.7 may be allowed. It is to be seen that both parties should be given equal opportunities to put forth their contentions. The rights of the parties should not be curtailed only because he was placed ex-parte and both parties should be given equal opportunities. Both are entitled to put-forth their contentions. Further, multiplicity of proceedings and delay in

dispensation of justice should be avoided. Hence, this Court feels that an opportunity should be given to the Defendants to put forth their contentions. Further, the Plaintiff will always have an opportunity to rebut the contention of the Defendants. Hence, this Court feels that the present application has merits and deserved to be allowed.

In view of the above discussions and deliberations, this Court proceeds to pass the following;

ORDER

The I.A.No.7 under Order 9 Rule 7 read with Sec.151 of CPC, is hereby allowed on cost of Rs.100/-.

The Ex-Parte Order of the Defendant No.2, is hereby set aside. The Defendant No.2 is permitted to come on record.

For Written Statement, call on by

Sd/-
C/c I-Addl. Civil Judge & JMFC,
Malur.