

MHAH060009562024

**COMMON ORDER BELOW EXH.12 AND 15**

(Passed on 20/03/2025)

Perused applications and say thereon. Heard both parties at length.

2] Application below Exh.12 is filed by the applicant for passing no say order against non-applicant. Application below Exh.15 is filed by non-applicant for granting permission to file say on record.

3] Learned advocate of the applicant Shri. P. R. Kapse submitted that, this application filed under Section 125 of the Code of Criminal Procedure, 1973 (**hereinafter it referred as the Code**). Matter is linger up for filing say of non-applicant. The non-applicant did not file any application for filing say or adjournment. The mother of the applicant is a healthy and not suffering from any disease. The non-applicant did not file any document in support of his contentions. Accordingly, he prayed for passing no say order against the non-applicant.

4] Per contra learned advocate of the non-applicant Shri. M. M. Gandhi submitted that, on receiving notice the non-applicant appeared before the Court through counsel due to the sickness of his mother he was unable to come in the Court and file say within time. The delay was not intentional. He further contended that, the applicant firstly filed this application before Newasa Court so, documents regarding matter are not

with the counsel. Therefore, delay is caused to file say in this matter. Accordingly, he prayed for granting permission to file say on record.

5] Perused the entire record. It reveals that, matter is filed under section 125 of the Code for claiming monitory reliefs. Now, the matter is linger up for filing say of the non-applicant.

6] Record transpires that, previously present matter is instituted before learned Newasa Court. The matter was transferred to this Court as per the order of the Hon'ble District and Sessions Court, Ahmednagar. At this stage, learned counsel of the applicant filed application for passing no say order against against non-applicant. Therefore, this Court called out say of the non-applicant and both application were decided simultaneously. The reason mentioned by the non-applicant for non filing say regarding transfer of the matter seems reasonable one. However, as per the Principle of Natural Justice, *no party should be condemned unheard*. So it would be just and proper to give a chance to non-applicant for proceeding with the matter. As far as objection of the applicant is considered it can be ruled out by imposition of the costs. Hence, I proceed to pass following order.

ORDER

1. Application below Exh.12 is hereby rejected.
2. Application below Exh.15 is allowed subject to the costs of Rs.1,000/- to be paid to applicant.

Date : 20/03/2025.
Place: Shrirampur.

(Vidya S. Kasbe)
Judicial Magistrate First Class
Court No.3, Shrirampur.