

MHAH080005422015 	<u>Common Order below Exh.1 & 59 in RCS No. 366/2015</u>
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1. The plaintiff has filed this suit against defendant No. 1 to 3 for grant of various reliefs i.e. declaration of ownership by adverse possession and perpetual injunction relating to suit property described in the plaint.

2. The suit summons was served upon defendants No.1 to 3 as per bailiff reports and these defendants have failed to give their appearance and therefore, suit was proceeded ex-parte against these defendants vide order dated 09.01.2016 passed below Exh.1.

3. In this application the defendant No.3-Tahsildar has filed the application (Exh.59) for grant of permission to file the written-statement and for setting aside the ex-parte order passed against them. The reason mentioned in the application for not filing the appearance is due to pendency of work in other matter. Application (Exh.59) is supported by affidavit in charge Circle Officer Shri.Jafar Pathan (Exh.60) and the same is also enclosed with the written-statement.

4. Plaintiff has opposed the application by filing the reply (Exh.61) and stating that, the contents of the application filed by the defendant No.3 is incorrect. It is further stated that, the defendant No.3 is served on 15.05.2015 and though he was

having the knowledge of the proceedings, there is intentional delay caused in putting the appearance. It is further stated that, the said application is filed after the evidence of the plaintiff is closed and therefore, the application is not tenable and the same be rejected.

5. Heard both the learned advocates and perused the record of the case. The record shows that, the plaintiff has filed the suit for declaring him as owner of suit property by way of adverse possession and for grant of the relief of perpetual injunction against defendants No.1 to 3. The suit is presented on 26.03.2015, the summons is served on defendant No.1 to 3 vide bailiff reports (Exh.10) and thereafter, there is ex-parte order dated 09.01.2016. The record shows that, the present application is filed after the period of more than 9 years, after passing of ex-parte order i.e. on 15.07.2025. The reason mentioned in the application is relating to pendency of work in the proceedings of WP No.10898/2017. On considering the said reason mentioned in the application and in order to proceed to decide the matter on merit, I fee it appropriate to consider this application by passing the following order :

: ORDER :

- A) The 'ex-parte' order dated 09.01.2016 passed below Exh.1 against the defendant No.3 is set aside and the defendant No.3 is permitted to file his written-statement on record below Exh.62, with direction to pay the cost of Rs.2000/- to the plaintiff by next date i.e. 10.08.2026.

- B) On failure of the defendant No.3 to pay the cost to the plaintiff by next date, there will be necessary order passed against the said defendant No.3 below Exh.1.
- C] The matter be kept for framing of issues and paying cost on next date.
- D] The application (Exh.59) is disposed off accordingly.
- E] Parties and advocates to note.

Date : 09/07/2026
Sangamner.

(B. N. Arbad)
Jt. Civil Judge, Senior Division,
Sangamner. J.O Code-MH00048