



Dada Tore

Vs.

Devubai Tore & Ors.

**ORDER BELOW EXHIBIT-76**

This is an application filed by defendants no.3 (a) and 3 (b) for setting aside an ex-parte order passed against them.

2. It is the case of defendant no. 3 (a) and 3 (b) that, they could not appear and file their written statement within the prescribed statutory period. If an ex-parte order will not be set aside against them and their written statement will not be taken on record, then they will be kept away from getting justice. Hence, they prayed to set aside no written statement order passed against them.

3. The learned advocate for the plaintiff filed his reply on the back leaf of the application itself and raised strong objection on the application.

4. Heard both sides. I perused the record.

5. It appears that the defendants have not stated any cogent reason as to why they were deprived of appearing before the Court and filing their written statement within the statutory period. However, it is always better to decide the matter on merit instead of deciding it without hearing the other side. Moreover, in order to follow the principle of natural justice i.e. *audi alteram partem*, and for a just and proper decision of the

suit on merit, it is necessary to set aside ex parte order passed against said defendants. Accordingly, I pass the following order.

**ORDER**

1. The application is allowed.
2. Ex-parte order passed against defendant no. 3 (a) and 3 (b) is hereby set aside subject to the payment of cost of **Rs.2,500/- (In words- Rupees Two Thousand Five Hundred Only)** to be paid by said defendants to the plaintiff.
3. Written statement which is already placed on record, be read and recorded after payment of costs as aforesaid.

Date:30/11/2024

**(Mayursingh D. Gautam)**  
2<sup>nd</sup> Jt. Civil Judge (J.D),  
Rahuri