

**ORDER BELOW EXH. 23 IN RCS. NO. 205/2020**  
(MHAH1900 0808 2020)

01. Defendant no.1 has filed this application to set-aside NO Say order passed against him on application for appointment of court commissioner at Exh.21. It is submitted that due to illness defendant no.1 could not remain present in the court on previous date and failed to file his say on Exh.21. Hence, NO say order is passed against him. If NO Say order is not set aside then defendant no.1 will suffer irreparable loss. Hence, defendant no.1 prayed to set aside the NO Say passed against him and to take his Say on record. Application is supported with affidavit.

02. Plaintiff filed say overleaf to the instant application and stated that the defendant has purposely made delay to file Say. No evidence is filed in support of his illness. Hence, application be rejected.

03. Heard both sides. Perused record.

04. Plaintiff filed application at Exh.21 for appointment of court commissioner. On perusal of record it shows that NO Say order is passed against the against the defendant on 08/12/2023 on Exh.21. Defendant no.1 has submitted that due to illness he could not file say on Exh.21 in time. Hence, delay is caused to file Say on Exh.21. However, the suit is related to immovable property. Defendant has availed sufficient opportunity for filing Say to Exh. 21. In view of above discussion, application deserves to be allowed in the interest of justice, but obviously on cost. Hence, I pass the following order.

**ORDER**

1. Application is allowed subject to cost of Rs. 100/- to be paid by defendant no. 1 to the plaintiff.
2. After payment of cost NO Say order passed against defendant no. 1 on Exh.21 be set aside.

Place : Shevgaon  
Date : 20/01/2024

Sd/-  
(S. U. Jaguste)  
Civil Judge Junior Division,  
Shevgaon.