

ORDER BELOW EXH. 25 IN RCS. NO. 372/2016
(MHAH1900 1317 2016)

01. Defendant no. 2 has filed this application to accept the cost amount of Rs. 1200/-. It is further submitted that defendant no.3 died in the meantime. So also lockdown was imposed due to outbreak of Covid 19. Hence, he could not pay the amount of cost. The defendant no.2 prays to allow the application and accept the amount of cost.

02. Plaintiff filed say overleaf the same application and stated that NO WS set aside order is passed on 01/01/2019. The lockdown is also over prior to 2 to 3 years. The reasons mentioned in the application are not true and correct. It is further submitted that it will be convenient to the plaintiff if he receives the amount of cost by hand. The plaintiff further submitted that additional cost of Rs. 2000/- be imposed on the defendant and total amount of Rs.3200/- be paid to the plaintiff.

03. Heard both sides. Perused record.

04. The suit is filed for partition and perpetual injunction. On perusal of record it shows that defendant no. 1 to 3 filed application vide Exh.23 to set aside NO WS order passed against them. The application at Exh.23 was allowed by my Learned Predecessor on 01/01/2019 by imposing cost of Rs.1200/- on defendant no.1 to 3. Thereafter, defendant no.1 to 3 did not pay the amount of cost and filed instant application to accept the amount of cost on 26/04/2023 i.e. after lapse of more than 4 years. The suit is for partition. Hence, say of every party is necessary to come on record to decide the shares of the parties and for fair trial and proper adjudication of the matter. But, the defendants have availed sufficient opportunity to pay the amount of cost. Hence, application deserves to be allowed but obviously on cost. Hence, I pass the following order.

ORDER

Application is allowed subject to cost of Rs. 300/- to be paid by defendants to the plaintiff.

Place : Shevgaon
Date : 13/08/2024

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