

Bhaskar Garje Vs. Arun Garje + 5.

1. This is an application filed by defendant No.2 General Power of Attorney Holder in favour of defendant No. 5 & 6 for permission to file Written Statement and Say by setting aside No W.S. Order.

2. Perused the application, Say on it and material placed on record. Heard Learned Advocate Shri R.N. Khedkar for the defendants and Learned Advocate Shri S.R. Nalange for the plaintiff.

3. The defendants submitted that, they appeared but, could not file Written Statement within time due to Covid-19 and oldaged persons. For putting their defence, a written statement needs to be filed on record. For providing a fair opportunity and to decide real controversy between the parties on merit, they filed the present application.

4. The plaintiff strongly opposed the application. It is the contention of plaintiff is that, only to prolong the matter, the present application is filed. The sufficient opportunity was granted to defendants to file W.S. but, they failed. Lastly, the plaintiff prayed for rejection of application with costs.

5. This is a suit for declaration and perpetual injunction in respect of immovable property. The defendants have filed affidavit of defendant No.2 i.e. Power of attorney holder of defendant No. 5 & 6

in support of application vide Exh.23. Considering the reasons mentioned in the application and under such circumstances to decide the real controversy between the parties and to provide opportunity of hearing, the written statement requires to be bring on record. Rejection of application, would cause denial of raising defence to the suit. Hence, to provide a fair opportunity to contest the suit, the application deserves to be allowed. Mere on the count of technical aspect, defendant No.5 & 6 cannot deprive from putting their defence on record. Hence, I pass the following order.

ORDER..

- 1. The application at Exh.22 is hereby allowed.**
- 2. Defendant No. 5 & 6 are permitted to file their Written Statement on record.**

Dated : 29/10/2021.

Sd/- x x x
(Sushil S. Deshmukh)
Civil Judge (J.D.),
Pathardi.