

MHAH220012972011



R.C.S. No. 335/2011

Vithal Labade and Ors.

Vs. Rajaram Labade and

Ors.

ORDER BELOW EXH.84

This is an application filed by defendant No. 22 for setting aside ex-parte order with permission to file the written statement.

2. It is the contentions of defendant No.22 that the defendant has been summoned, but since the defendant has gone out of town and has not appeared in court, ex-parte order has been passed against him. Therefore, defendant No. 22 filed present application for setting aside ex-parte order with permission to file written statement.

3. Plaintiffs filed their say on overleaf of the present application wherein, they submitted that costs of Rs.10,000/- may be granted.

4. Heard both sides.

5. Perused the record. After perusal of record, it appears that plaintiffs filed the present suit for partition and declaration.

6. It is the contentions of defendant No. 22 that defendant has gone out of town. After perusal of record, it appears that ex-parte order is passed against defendant No. 22. The present suit is relating to the immovable property. If the application is allowed no prejudice will cause to plaintiffs. Per contra it will avoid the multiplicity of the proceeding. For fair trial, it is necessary to give an opportunity to defendant No. 22 to defend the suit. If an opportunity is not given to defendant No. 22 it will cause hardship to him.

However, delay caused by defendant No. 22 for appearing in the present suit and filing written statement can be compensated by imposing costs on him. So in the interest of justice, I proceed to pass the following order :-

ORDER

1. The application is allowed with costs.
2. The ex-parte order passed against defendant No.22 is setting aside.
3. Defendant No. 22 is permitted to file hi written statement subject to payment of costs of Rs. 200/- (Rs. Two Hundred Only) payable to the plaintiffs.
4. If defendant No.22 failed to comply the present order on or before next date then the present order is automatically set aside.

(Dictated and pronounced in open Court)

Date : 11/02/2026.

(R. B. Raut)
2nd Jt. Civil Judge, Junior Division,
Karjat, Dist. Ahmednagar