

**ORDER BELOW APPLICATION VIDE EXH.25 IN R.C.S.No.151/2018**

(Asha Supekar Vs. Anil Supekar)

1] The present application is filed by defendant no.2 to set aside Ex-parte order passed against him.

2] It is contention of the defendant no.2 that, defendant no.2 was engaged in compromise talks with defendant no.1 in regard of repayment of loan. So, defendant no.2 could not appeared before the Court within prescribed period. Valuable rights of defendant no.2 are involved in the suit property. Hence, prayer to allow the application.

3] The plaintiff has filed his say below the application and resisted the same. It is contended that, grounds mentioned in the application about delay are not void. Only to prolong the matter, defendant delayed filing WS by way of Ex-parte. There is more than one year delay. Hence, the application deserves to be rejected and cost be given to the plaintiff.

4] Heard both the Advocates. Considering the contentions in the application and say overleaf the application, following points arise for my consideration and I have recorded my findings thereon along with the reasons as below:

<b>Sr.No.</b>	<b>Points</b>	<b>Findings</b>
1]	Whether Ex-Parte Order passed against defendant no.2 is liable to be set aside?	<b>Affirmative</b>
2]	What order ?	<b>As per final order...</b>

**REASONS:**

5] The suit summons are served to defendant no.2 on 14.06.2018 and expected date given on the summons for appearance of defendant no.2 was 25.06.2018. Defendant no.2 failed to appear on 25.06.2018 and accordingly ex-parte order was passed against defendant no.2. The present application is filed on 13.06.2019 and there is approximately 1 year delay to appear and file her written statement. The delay of 1 year can be compensated by imposing reasonable cost upon the defendant no.2. Valuable rights of the defendant no.2 are involved in the suit property. Hence, considering the principal of natural justice I answer Point no.1 in the affirmative and in result of Point No.2 I pass following Order;

**:: ORDER ::**

- 1] The application vide Exh.25 is allowed.
- 2] Ex-parte Order passed against defendant no.2 is hereby set aside on cost of Rs.1,000/- to be given to the plaintiff on next date.
- 3] Cost in Cause.

Date: 05/02/2019

Sd/-xxx  
( **R.B.Kulkarni** )  
Jt. Civil Judge (J.D.),  
Shrigonda.