

MHAH230006872023



**ORDER PASSED BELOW EXH. 5 IN SPL.C.S.NO.122/2023**  
( Uttam Chagan Shinde Vs. Anil Dhuraji Padale )

1. This is an application under Order 39 Rule 1 of CPC for temporary injunction in the suit for specific performance, filed by the sole plaintiff. Suit proceeded ex-parte. My learned predecessor passed order dated 09/10/2023 on exhibit-14, an application filed by the plaintiff, directing parties to maintain status-quo. It was up to filing of say to exhibit-5.
2. However, the defendants not appeared for about one year and hence, instead of adjourning matter keeping the same stage, this Court by order dated 10/07/2024 confirmed order dated 09/10/2023 **until disposal of the suit**. As such exhibit-5 merged and not remained open for hearing.
3. But subsequently defendants appeared on 21/08/2024 and filed an application to set aside ex-parte order and allow them to file written statement and say to exhibit-5. By hearing parties vide order dated 24/01/2025 that application exhibit-33 is allowed.
4. However, in *Roznama* the case is shown for hearing on exhibit-5. This is incorrect *Roznama* as on 10/07/2024 ad-interim relief is confirmed until final disposal of the suit and that order is specifically noted in *Roznama* of the same date.
5. Learned advocate Mr.M.D.Shinde, appearing for the defendants submits that even that order of confirming ad-interim relief dated 10/07/2024 on exhibit-14 was challenged before the Hon'ble District Judge but it is withdrawn on the say of some other advocates. Now he, unethically insisted the Court to hear exhibit-5. This Court politely pointed out to the learned advocate that because of order dated

10/07/2024 passed by this Court confirming ad-interim relief **until final disposal of the suit** exhibit-5 is not in existence for hearing. It is also informed that appropriate remedy be availed by the advocate. However, he submits that because application to set aside written statement and say on exhibit-5 is allowed the Court must hear on exhibit-5. This is unprofessional on the part of the learned advocate for the defendants. The Court again and again informed the learned advocate that appropriate remedy is provided in the law and the learned advocate should make proper application or file the appropriate proceeding as this is the trial Court. However, the learned advocate did not listen. He also not chose to file any application which he can file in law.

**For the reasons stated above, as exhibit-5 is not open for hearing at this stage, oral request/insistence of the learned advocate appearing for the defendants cannot be acceded to hence the oral request/insistence is disallowed, being untenable.**

**The defendants are at liberty to avail appropriate remedy, as advised to them.**

Date : 25/03/2025

Civil Judge, Senior Division,  
Shrigonda.