



ORDER BELOW EXH.17 IN CRI. M. A. NO.119/2022

(CNR NO. MHAH2500 1067 2022)

The present application is filed by the applicant i.e. the opponents for setting aside 'No Say' order and to take their say on record. It is the contention of applicants that, there was delay in filing say, as they could not make available to themselves important documents and necessary information and during that period, mother of opponent No.1 was ill. Consequently, court has passed the 'No Say' order against them. Hence, they prayed to take on record their say by setting aside 'No Say' order for the above mentioned reason.

2. The original applicant, to the said application replied that the opponents are appeared in the court on 04.01.2023. Thereafter, they deliberately absent in the court. On contrary, son of applicant is only one and half year old. Opponent deliberately prolonging the said matter. Therefore, application kindly be rejected or if court wants to allow the application, it be allowed by imposing heavy cost.

3. Heard both the sides, on perusal of the application and reply filed on the said application, it seems that, there is delay for filing say on part of opponents. However, it is necessary to note that, the statutory period within which the say is to be filed is expired. However, by considering the dispute in hand, nature of the case, opportunity should be given to the opponents.

4. In view of the above and for just decision of the case, it is necessary that it be decided on merits and for the same purpose it

would be just proper to bring on record, the say of the opponents. Any matter on record must be decided based on merits and only after effective adjudication upon it. This procedure lapse as stated can be treated upon statutorily. A procedural prescription is to facilitate the process of justice and hence, in light of the above, opportunity should be given to opponents. But at the same time, there should not be prejudice to the original applicants. For that purpose, original applicants can be compensated by imposing costs on opponents. As a result, I proceed to pass the following order.

ORDER

1. Application is allowed and the order of 'No say' against applicants is hereby set aside subject to the cost of Rs.100/-.
2. Cost to be paid to the original applicants on or before the next date.
3. After payment of the said cost, the say of opponents be taken on record.

Date : 10.03.2023.

(Uma A. Borade-Kapoor)
Judicial Magistrate First Class,
Court No.2, Parner.