

**ORDER BELOW EXH. 14 in RCS No. 46/2023**  
**(Pawan Vs. Nihalsing & Ors.)**

**01.** This application has filed by defendants for setting aside 'exparte order' dtd. 24/07/2023.

**02.** Defendants submitted that, this Hon'ble Court pleased to issue suit summons to the defendants and accordingly the defendants served the suit summons and the matter was posted on 26/06/2023 for appearance of the defendants, but the defendants have no legal knowledge and hence they could not appear before this Hon'ble Court. Due to that, this Hon'ble Court pleased to pass ex-parte order against the defendants. There was no ill-intention on the part of the defendants, but due to reasons mentioned above, the defendants could not appear in the present suit. The valuable rights of the defendants are involved in the present subject matter and if, the ex-parte order passed against the defendants will not be set aside, then the defendants will have to suffer irreparable loss, which cannot be compensated in any means. Therefore, in view of all above facts and circumstances, the ex-parte order passed against the defendants be set aside and the defendants be permitted to contest the present suit.

**03.** Plaintiff filed his say and objected this application by submitting that, the summons for appearance to the defendants were served on 26/06/2023 and since then the defendants inspite of the service of the summons remained absent till filing, application ie. on 11/01/2024 and filed the application for

setting aside ex-party order on the same date along with for granting time for filing say/W.S. This application is filed only with view to prolong the matter. Hence application for setting aside ex-party order may be rejected.

**04.** Perused the record. Heard ld. Advocate for plaintiff. None appeared for defendants. This application for setting aside 'exparte order dtd. 24/07/2023. Defendants mentioned the reason relating to ignorance of legal procedure. But it is not lawful. However, it is settled law that such type of applications are required to be dealt liberally. Further, in view of principle of 'audi alteram partem', it is also necessary to grant a opportunity to other side to put their defence. So far as the delay, which was caused to this proceeding due to the conduct of defendants, it can be compensated by imposing costs. Thus, application is liable to be allowed. Hence, following order is passed:-

**:-: ORDER :-:**

- (1) The application is allowed subject to costs of Rs. 1000/-.
- (2) The costs amount be given to plaintiff.

Date: 07/05/2024

(V. H. Khedkar)  
(CJD, Khulabad)

## CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/order are same, word to word, as per the original Judgment.

Name of the Stenographer :- ***Akash S. Chavan***  
(Stenographer Grade-III)

Court :- Khulatabad

Date :- 07/05/2024

Judgment/order signed by :- 07/05/2024  
the presiding officer on

Judgment/order uploaded :- 10/05/2024  
on