

MHAU100005972020



ORDER BELOW EXH. 19 in RCS No. 17/2020
(Eknath Vs. Kisan)

01. This application has filed by defendant No. 1 for setting aside 'exparte order' dtd. 26/02/2021 by menting reason of his illness.

02. Per contra, plaintiff objected this application by submitting that summons was served to defendant No. 1 on 18/04/2020 and thereafter, the suit has been proceeded exparte by passing order on 26/02/2021 below Exh. 01. Thereafter, defendant No. 1 appeared and thereafter, temporary injunction application was also decided on 30/03/2022 and thereafter, the evidence of plaintiff is also concluded and then, this application has been filed. This application is seen to be filed only with view to harras the plaintiff. Hence, he prayed for rejection of this application with costs.

03. Perused the record. Heard both sides. This application for setting aside 'exparte order dtd. 26/02/2021. Written statment of defendant No. 1 is also annexed with this application. Appearently no medical papers are annexed with medical reason of defendant No. 1 to explain the delay. 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 his defence. So far as the delay, which was caused to this proceeding due to the conduct of defendant No. 1, 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. 2000/-.
- (2) The costs amount be given to plaintiff.

Date: 14/03/2024

(V. H. Khedkar)
(CJJD, Khulatabad)

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 :- 14/03/2024

Judgment/order signed by :- 14/03/2024
the presiding officer on

Judgment/order uploaded :- 15/03/2024
on