

MHBI160002932010



**R.C.S.No.11/2010**

Babasaheb Vs. Rukhminbai

**ORDER BELOW EXH. NO.63**

Perused application and say. Heard both the sides. Plaintiff prayed for setting aside the evidence close order passed against him dated 21.12.2019. The learned advocate for the defendants have given their say on the application itself and prayed for rejection of the application.

2. Plaintiff contended that, he and his witness was absent due to the sickness and further due to the Covid-19 and S.T. bus strike, plaintiff was not absent intentionally, matter is about the landed property. Therefore, plaintiff prayed for setting aside evidence close order passed against him.

3. Per contra, the learned advocate for the defendants submitted that the reasons stated in the application is not proper, plaintiff wants to prolong the matter. Hence, prayed for rejection of application.

4. The plaintiff have filed the present suit for declaration and perpetual injunction in respect of the suit property. On perusal of the suit and application it seems that important civil rights of the plaintiff is involved. Plaintiff has argued the application in the light of Covid-19. As per the order of Hon'ble Apex Court in Suo-moto Writ Petition No.3/2020 the period in between 15.03.2020 to 28.02.2022 needs to be exempted in view of spread of Covid-19. But the present application is not only covered under the said circumstances. It is necessary to decide every suit on merit rather than the technicalities. Hence, one opportunity needs to be given to the plaintiff to proceed further. Hence, the

present application needs to be allowed. However, the delay caused can be compensated considering the nature of suit, the stage of suit, conduct of party by imposing proper cost. Hence, I pass the following order:

**ORDER**

1. Application is allowed subject to depositing the cost of Rs.450/-.
2. Cost be given to the defendants on or before next date.
3. Parties to take note accordingly.

Date : 22/12/2022

(A.T.Mangire)  
Civil Judge Jr. Division,  
Shirur kasar.

"I affirm that the contents of this PDF file are word to word as per original Judgment/order".

Sd/-  
[P.B. Kusumkar]  
Stenographer Grade-3

Dictated on : 22/12/2022  
Transcribed on : 22/12/2022  
Checked & signed on : 22/12/2022