

MHCO010003732025 	Dispute No. 331/2025 <u>Gold Star CHSL and Ors.</u> <u>Vs.</u> <u>Mr. Imran Abdul Rauf Memon and Ors.</u>
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ORDER BELOW EXH -11

(Passed On 29th day of November, 2025)

1. The opponent No.1 filed the present application for setting aside ex-parte order dated 18/10/2025.
2. Perused the application, reply filed by the disputants. Heard Ld. Advocates for the opponents and disputants.

Case of the opponents in brief as:-

3. The opponent No. 1 submitted that, he has rented out his flat on leave and license basis. Therefore, he could not get notice of the present matter. As soon as he came to know about the present dispute, he has appeared before this court. When the opponent No. 1 appeared before this court, he came to know that, ex-parte order dated 18/10/2025 is passed against the opponents. The absence of the opponent No. 1 is not intentional. Hence, the opponent No. 1 prayed to set aside ex-parte order dated 18/10/2025 passed against him in the interest of justice.

Case of the disputants in brief is as:-

4. The disputants filed reply below Exh-12 and submitted that, the dispute is filed on 14/08/2025 and the notice and summons are served upon the opponents. As all the notices and summons are returned as unclaimed, hence, on 18/10/2025, this court passed ex-parte order dated 18/10/2025 against them. The reason mentioned in the

application is not satisfactory. Hence, the disputants prayed to reject the application with costs.

5. Perused the application and reply filed on record. Considering rival submissions following points arose for consideration and my findings thereon are as follows.

<u>Sr. No.</u>	<u>POINTS</u>	<u>FINDINGS.</u>
1)	Whether the applicant is entitled to set aside Ex-parte order dated 18/10/2025 as prayed?	Yes
2)	What Order?	As per final order.

REASONS

Point No. 1 and 2

6. Perused the application. Heard both sides. It is settled principle of law that, on showing sufficient reason the ex-parte order can be set aside. The discretion is vested with the Court for considering such application. The opponent No. 1 has shown the sufficient reasons for their absence in the said matter. Record shows that, the disputant has filed present dispute against the opponents for declaration and injunction. The opponent inspite of service of summons, failed to appear and hence ex-parte order dated 18/10/2025 is passed against them. If the opportunity of being heard is not given to the opponents, they will be seriously prejudiced. The principle of natural justice require active participation of both parties so that the court could come to the right conclusion by hearing both sides.

7. There will be no prejudice to the disputants, if the opponents is allowed to proceed with matter. The principle of natural justice requires due opportunity to all the parties so that they can raise the defence and contest the dispute.

8. Considering the facts and circumstances, though the sufficient cause is not satisfactory, but, the matter is fresh one filed in the year 2025. Hence, the reason mentioned by the opponent No.1 is taken into consideration and accordingly, in the interest of justice and for giving opportunity of being heard, I am of the considered view that, the present application needs to be allowed. Therefore, considering the inconvenience caused to the disputants costs needs to be imposed upon the opponents. As such, I answer point No. 1 in the affirmative and in answer to point No. 2, I pass the following order:-

ORDER

1. The application is allowed subject to cost of Rs. 300/- to be paid by the opponent No. 1 to the disputants till next date.
2. The ex-parte order dated 18/10/2025 passed against the opponent No. 1 is hereby set aside after the compliance of costs.

Mumbai
Date : 29/11/2025

Sd/-
(Sheetal. S. Matkar)
Judge,
Co-operative Court No.2,
Mumbai.