

Order below Exh.21 in CC/ I/479/2023
(Sunil M. Parab Vs. Vidyadhar Dalvi & others)

1. This is an application filed by opponent No.1 to set aside ex-parte order / roznama dated 06/03/2024 and leave to defend the dispute be granted to opponent No.1. Opponent No.1 submitted that opponent No.5 society filed WS on 10/01/2024. Opponent No.1 is the bonafide member of the society and is the erstwhile secretary of the opponent No.5 society. Therefore, opponent repeats, retreats and confirms whatever stated in the WS filed by opponent No.5.

2. The opponent further submits that on 06/03/2024 the matter was posted for the say of opponents. But due to preoccupation, ill health and personal difficulties opponent failed to attend the court and failed to file WS. Opponent is no more treasurer of the society. Therefore, no dispute could have been filed against opponent. The absence of opponent on that date was unintentional. Hence, prayed to allow the application.

3. Disputant filed say and denied the application. Disputant submitted that opponent No.1 duly served with summons on 14/12/2023. Opponent Nos.1 and 2 were actively involved in the dispute since the April 2023. The reasons given in the application are invalid. To support the ill health no medical reports are attached. Hence, prayed to impose heavy costs on opponent No.1 and dismiss the application.

4. Perused the application. After going through application it appears that in the cause of ill health, personal difficulty was given by opponent No.1. However, as rightly stated to support the claim no documentary evidence is attached by the opponent No.1. Hence, the reasons are not seems to be justifiable. However, if opportunity to be heard is denied to opponent No.1 then, it will cause grave injustice on

part of opponent No.1. In addition to that it will create the multiplicity of the proceedings. Hence, only for the interest of justice and for proper adjudication of matter it is necessary to give fair opportunity to the opponent No.1. Accordingly, I proceed to pass following order.

ORDER

1. Application is allowed.
2. Ex-parte order passed against opponent No.1 is set aside subject to payment of cost of Rs.1,000/- (Rupees One Thousand only) to the disputant on or before next date.

Date : 26/11/2024

Sd/-
(S.V.Metil-Patil)
Judge,
Co-operative Court No.1,
Mumbai.