

Order below Exh-47 in CC/I/479/2023
(Sunil Parab Vs. Vidyadhar Dalvi and Ors)

1. This is application to set aside no reply order dated 01/08/2025 by opponent No. 1, 2 and 5. Opponent No. 1, 2 and 5 submitted that, on 01/08/2025, the dispute was kept for filing say by disputant on Exh-46 and also for filing say by opponents below Exh-41 and 42. Vide order dated 25/06/2025, the hearing of dispute took place by video conferencing mode. On 01/08/2025, advocate for opponent No. 1, 2 and 5 visited the court physically as no hearing link was provided to opponent No. 1, 2 and 5 by the department. At 11.00 AM on 01/08/2025, the advocate for opponent No. 1, 2 and 5 mentioned the matter before the court and informed that no hearing link has been forwarded to them. At that time, appearance for advocate for opponent No. 1, 2 and 5 society was taken on record and it was informed that matter will be called at 2.45 PM online and department will forward hearing link on e-mail ID advocate for opponent No. 1, 2 and 5. Accordingly, opponent no. 1, 2 and 5 provided email ID to the staff. Advocate for the opponent No. 1, 2 and 5 waited till 6 PM at their office but no link was forwarded and matter remained unattended and no reply order has been passed. In the roznama, opponent No. 1, 2 and 5 shown absent. No hearing link was forwarded to opponent No. 1, 2 and 5, hence, in the interest of justice, it is necessary to set aside no reply order passed against opponent No. 1, 2 and 5.

2. Disputant filed a say and submitted that, application is misconceived and attempt to delay the proceedings. The opponents were duly aware of schedule of hearing and had ample opportunity to participate in the proceeding. Considering the reason to be true what prevented the opponents from filing their reply. Opponents not filed their reply on Exh-41 since the filing of application. In the morning session

opponents was having opportunity to file the reply if they with the opponent without having substantial cause are delaying the proceedings. Opponents refused to comply with order passed below Exh-33. Hence, opponents already adjudication of dispute for period of 8 months. Opponents not explained the reason why they failed to file reply. Application is after thought. Hence, prayed to reject the application with costs.

3. Perused the application. Heard learned advocate Nalawade for opponent No. 1, 2 and 5. He submitted that, on 01/08/2025, no say order was passed against him without giving them opportunity, as no link of video conferencing sent to him. Hence, prayed to set aside the application. Learned advocate for disputant opposed the application on ground that, the application is duly stamped. Further, the application below Exh-41 kept for say and for long period no say is been filed by the opponent. Hence, considering conduct of opponent prayed to reject the application.

4. Before going into merits of the case, it is important to note that, the hearing of this dispute is being conducted by video conferencing mode. There is no provision of GRAS attached with this court. Hence, it is impossible for the parties, to attach the court fee by video conferencing mode. Hence, it was clarified and directed to both parties to file the application by offline mode. In addition to that, though no court fee is attached to the application below Exh-47. However, as per oral direction of court in view of pursis below Exh-51, the proper stamp is paid by the opponent. Hence, objection of disputant that, application is insufficiently stamped is not tenable.

5. Coming to the merits of the case, after hearing both parties, track of online hearing was searched. Admittedly, as per request of

disputant the hearing of present dispute is being conducted by video conferencing mode. On 01/08/2025, link of video conferencing was sent to disputant and opponents. The mail ID on which the link was sent on 01/08/2025 was mjnalawde@gmail.com. As no one attended the video conferencing from opponent side. Hence, no say order was passed against the opponent. Thereafter, I also checked the online hearing details which were conducted subsequently on 11/08/2025. On 11/08/2025, opponent advocate was present and the link was sent on email ID - mjnalawade@gmail.com. Comparing both email IDs, it appears that, concerned dias clerk wrongly sent the link on incorrect email ID. So there appears substance in the submissions of opponent No. 1, 2 and 5 that on 01/08/2025, link of video conferencing was not forwarded to them. As the order is passed in the absence of opponent and without giving them fair opportunity to represent them. Hence, as per principles of natural justice opponent No. 1, 2 and 5 deserves an opportunity to submit their say. In view of above reasonings, I proceed to pass following order:

ORDER

1. The application is allowed.
2. The opponent No. 1, 2 and 5 are directed their say till next date without fail.

Date : 10.10.2025

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