

ORDER BELOW EXH. 35
IN R.C.S.NO. 81/2022

This is an application filed by defendant No. 3 & 4 for setting aside ex-parte order passed against them.

2. It is contended by defendant No. 3 & 4 that they are illiterate and housemakers and cultivating the farms, therefore, they had no legal knowledge. Due to the lack of legal knowledge they could not remain present within stipulated period. Therefore, ex-parte order came to passed against them. They does not deliberately remain absent before the Court. They wants to raise lawful pleas in the matter. If the application is not allowed, they will suffer irreaprabable loss. Hence, they prayed to allow the application.

3. The plaintiffs filed their say and strongly resisted the application. They contended that reason mentioned in the application are not genuine. Hence, they prayed for rejection of the application with costs of Rs. 15,000/-.

4. Heard both the sides. On perusal of record it appears that plaintiffs filed the present suit against the defendants for the relief of partition, declaration and permanent injunction. In the present suit, defendant No. 3 served with the summons vide Exh. 12 on 11.01.2023 whereas defendant No. 4 served with the summons vide Exh. 13 on 10.01.2023. However, they remained absent before the Court. Therefore, ex-parte order came to be passed against them on 10.06.2023. The suit is in respect of

immovable property and rights of the present defendants are involved in the suit property. The defendant No. 3 & 4 filed their written statement on record. Therefore, the reason mentioned in the application appears to be satisfactory. However, considering the nature of suit, it will be just and proper to give an opportunity to defendant No. 3 & 4 to contest the suit by setting aside ex-parte order. If the said application is rejected, it will cause serious prejudice to them. On the other hand, no prejudice will be caused to the plaintiffs, if the said application is allowed. Moreover, it will help the Court to decide the controversy between the parties on merits. So far as delay in filing the present application is concerned, it will be just and proper to award costs of Rs. 500/- to the plaintiffs for the same. Hence, I pass the following order :

ORDER

- 1] Application is allowed subject to cost of Rs.500/- (Rs. Five Hundred only) payable to the plaintiffs.
- 2] After payment of costs, exparte order passed against defendant No. 3 & 4 will be set aside and the Written Statement filed by defendant No. 3 & 4 will be accepted.

Shindkheda.
Date :- 27.06.2025.

(Harshada S. Admane)
Civil Judge, J.D, Shindkheda.

CERTIFICATE

I certify that the contents of this PDF file are word to word as per Original Order.

Name of the Stenographer: Rahul N. Mali,
Name of the Court : Civil Court J. D., Shindkheda,
PDF Uploading date : 30.06.2025.

Sd/-xxx
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