

ORDER PASSED BELOW EXHIBIT NO. 89
IN R.C.S. NO.70/2014

01. The defendant no.10 has filed instant application for setting aside ex-parte order date 09-04-2014 passed below Exhibit No. 1 and thereby prayed for grant of permission to file written statement on record.

02. By this application, the defendant No.10 has contended that she is very old age lady and her daughter taken care of her. Now day she came to know about the present suit. So also she has received suit summons previously also. Therefore, she executed power of attorney in the name of Sundar Shamrao Pandhare dated on 10-10-2016. Herein after said Sundar Pandhare will present and represent her in instant suit. It is contended that, she has not deliberately avoided to remain present before the Court. Thus, ultimately the defendant No.10 has prayed for setting aside ex-party order dated 9-4-2014 passed below Exhibit No. 1 and thereby prayed for grant of permission to file his written statement on record. The instant application is supported by an affidavit.

03. The plaintiff has objected the instant application mainly on the ground that, the defendant No.10 has deliberately avoided to file her written statement on record. It is contended that, period of 2 years has already been passed. Thus ultimately, the plaintiff has prayed for rejection of the instant application. On the other hand, he

has contended that if this court comes to conclusion that the application is to be allowed, cost of Rs.1,000/- be saddled on the defendant No.10.

04. I have heard the learned advocate for respective parties at length.

05. On perusal of record it transpires that, the defendant No.10 served on before dated 9-4-2014. Thereafter, she failed to appear before this Court. Consequently aforesaid ex-party order dated 9.4.2014 is came to be passed against her. Thereafter, after filing of written statement by the remaining defendants, the issues are not yet to be framed. On 24.10.2016, the present defendant No.10 suddenly appeared and filed instant application for setting aside ex-party order dated 9.4.2014 passed below Exhibit No.1 against her, on the ground that the she is very old age women. And unable to attended the Court due to her old age. Be that as it is seen that the present suit is for partition and perpetual injunction. Considering the nature of suit, I am of the considered view that the defendant No.10 must be given an opportunity to contest the suit on merit. In this view of matter, the instant application is deserves to be allowed. At the same time the plaintiff will have to be compensated in terms of cost. Hence, I proceed to pass the following order.

-: ORDER :-

1. Application Exhibit No.89 is allowed.
2. Ex-parte order dated 9.4.2014 passed below Exhibit No.1 against the defendant No.10 is hereby set-aside and she is permitted to file his written statement on record subject to payment of cost of Rs.200/- [Rs. Two Hundred only] to be paid to the plaintiff on or before next date.

Dt. 24-10-2016.

sd/-
(S.M.Jadhav)
^{2nd} Jt. Civil Judge, Junior Division,
Peth-Vadgaon..

CERTIFICATE

I affirm that the contents of this P.D.F. File Judgment/Order are same, word to word, as per the original Judgment/Order.

Name of the Stenographer	Mrs. Rajashri Rajendra Sawant
Name of Court	Shri. S.M.Jadhav 2 nd Jt. C.J.J.D. and J.M.F.C., Peth Vadgaon
Date of Dictation	24/10/16
Judgment signed by the P.O. on	24/10/16
Judgment/Order uploaded on	27/10/16