

ORDER BELOW EXH- 27.

Defendant no.3 has filed this application for setting aside no ex-party order pass against her. It is contention of defendant that, some other civil suits were pending between them before this court. She had already filed her W. S. in that proceeding. However, she has appointed Adv. S. V. Powar of Gadhinglaj. But, due to his medical reason he could not able to attend the court and in result ex-party order was passed against her. Present suit of plaintiff is not maintainable and she having natural right to contest the suit. Thus, to avoid her further loss prayed to allow application.

2. Plaintiffs endorsed their say backside of the application and strongly opposed. They contended that, despite service of suit summons, defendant has not filed her W. S. with intention to prolong the case. Further, the reason sought by the defendant is not justifiable. Thus, prayed to reject the application.

3. Heard both counsels. They argue in verbatim of their application and say. With the help of counsels I have gone through record. Service of suit summons to this defendant is not disputed. As per record, on 17.10.2022 ex-party order passed against this defendant. It shows that, she having knowledge of the proceeding before passing ex-party order. Despite that, till filing present application, she has not taken any pain to appear in proceeding. She merely contended that, she had appointed other advocate to conduct the matter. However, she has not filed single document to support her contention.

4. This is suit for pre-emption. The valuable property rights of both parties are involved in it. The W. S. of Defendant no.3 is just for the final decision of the suit. No prejudice would be caused to the plaintiff, if her application allowed. Per contra, if this application rejected it will be treated as denial of natural justice. Hence, considering above discussion and short age of proceeding application deserved to be allowed without imposing cost. Hence, result of above discussion, I pass following order,

ORDER

1. Application is allowed, no order to cost.
2. W. S. of defendant be R & R.
3. Parties to take note and proceed with suit.

Place- Ajara.
Date- 20.01.2025.

(R. P. Thore)
J.O.Code No.MH02897
Civil Judge, Junior Division,
Ajara.