

ORDER BELOW EXH- 98.

Defendant has filed this application for setting aside no evidence order passed against him. It is contention of defendant that, due to medical reason of his previous counsel he could not able to adduce further evidence. Further, as per application of his advocate before Hon'ble Principal District and Sessions Judge, Kolhapur is exempted from appearance in matter till 10.05.2024. However, on 18.03.2024 no evidence order passed against him. He further contended that, no internal delay caused by him to proceed with suit. If he is not permitted to adduce further evidence, his interest greatly prejudice. Per contra if application allowed no prejudice would be caused plaintiff. Thus, prayed to allow application.

2. Plaintiff not strongly opposed the application and prayed to allow the application subject to cost.

3. I have heard both sides while filing application and say. Perused record, it is not disputed that, advocate Shri. S. V. Powar is continuously absent due to his medical condition. Due to absence of advocate for defendant, he could not adduce further evidence and no evidence order passed against him.

4. Defendant contended that, the exemption from appearance have been granted to his counsel on medical ground is in existence till 10.05.2024. The same is not denied by plaintiff. On perusing record it shows that, due to non-availability of counsel no evidence order

was passed. This suit is old one. If on such reason opportunity denied to defendant it would caused great prejudice. The parties would not suffer on part of failure of their counsel. Herein, the reason of absence of advocate for defendant is genuine one. Therefore, to decide suit finally on merit one more opportunity need to be given to defendant. No prejudice would be caused to the plaintiff if application allowed. Hence, in result I pass following order,

ORDER

1. Application is allowed.
2. Considering reason no order to cost and defendant is directed to diligently proceed with suit by filing additional evidence without fail.
3. Defendants to take note that, no further adjournment granted to lead evidence.
4. Parties to take note and proceed further.

Place- Ajara.
Date- 12.08.2024.

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