



Order Below Exh.178 In R.C.S. No.133/2012
(Sagar Yallappa Koli and Ors. v. Sagar Ramu Ambi
and Anr.)

Proposed defendant No.3 has filed present application for setting aside 'ex-parte' order passed against her on application (Exh.163).

02. Proposed defendant No.3 contended that, she was out of station and therefore she failed to appear in the suit and file say on application (Exh.163). Hence, application (Exh.163) proceeded ex-parte against her. In order to decide application (Exh.163) on merit, opportunity may be given to her to contest application (Exh.163) by filing on record her say on said application. Hence, she prayed that, present application may be allowed.

03. Plaintiffs have strongly resisted present application by filing their say on overleaf of present application. They further contended that, reasons mentioned in the application are not justifiable. Present application is filed in order to delay the suit. Hence, they prayed that, the application may be rejected with heavy costs.

04. Heard learned advocates for both parties, at length. They have argued in consonance of their pleadings.

05. On perusal of record and proceeding it appears that, in spite of service of notice, proposed defendant No.3 has not appeared in the suit and failed to file say on application (Exh.163). Hence, as per order passed below application (Exh.163) dated 20.03.2025, application (Exh.163) ex-parte against proposed defendant No.3. However, in view of reasons mentioned in present application, submissions of both sides as well as considering nature of the suit and interest of parties involved in the suit property, it would be just and proper to give opportunity to proposed defendant No.3 to contest application

(Exh.163) on merit. Proposed defendant No.3 has filed present application after considerable lapse of time. However, the delay caused by proposed defendant No.3 can be compensated by imposing cost upon it. Considering the delay caused, it would be just and proper to impose cost of Rs.300/- on proposed defendant No.3, which shall be payable to plaintiffs. Resultantly, I pass following order :-

:: ORDER ::

1. Application (Exh.178) is hereby allowed subject to costs of Rs.300/- (Rupees Three Hundred Only) payable to plaintiffs.
2. Payment of cost shall be condition precedent for setting aside ex-parte order passed against proposed defendant No.3 on application (Exh.163).
3. Accordingly, application (Exh.178) is disposed of.

(Dictated and pronounced in the Open Court).

Date : 05.04.2025.

(Balasaheb S. Gaikwad)
Civil Judge, Junior Division,
Kurundwad.