



Order Below Exh.132 In R.C.S. No.152/2012
[Sagar Yallappa Koli and Ors. v. Sagar Ramu Aambi
(deceased) through his LRs. and Ors.]

Defendant Nos.4 and 5 have filed present application for setting aside 'ex-parte' order passed against them.

02. Defendant Nos.4 and 5 contended that, they were out of station and hence, they could not received suit summons issued against them through RPAD. Therefore, they failed to appear in the suit. On account of that, the suit proceeded ex-parte against them. In order to decide the suit on merit, opportunity may be given to them to contest the suit by filing on record their written statement. Hence, they prayed that, the application may be allowed.

03. Plaintiffs have strongly resisted present application by filing their say vide Exh.135. They contended that, reasons mentioned in the application are not justifiable. The application is devoid of merits. Hence, they prayed that, the application may be rejected. They alternatively contended that, if the Court comes to the conclusion to allow present application, heavy cost may be imposed upon defendant Nos.4 and 5 while allowing present application.

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 suit summons, defendant Nos.4 and 5 have not appeared in the suit. Hence, as per order passed below Exh.1 dated 25.07.2025, the suit proceeded ex-parte against defendant Nos.4 and 5. However, in view of reasons mentioned in the 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 defendant Nos.4 and 5 to contest the suit on

merit. Defendant Nos.4 and 5 has filed present application after considerable lapse of time. However, the delay caused by defendant Nos.4 and 5 can be compensated by imposing cost upon it. Considering the delay caused, it would be just and proper to impose cost of Rs.200/- on defendant Nos.4 and 5, which shall be payable to plaintiffs. Resultantly, I pass following order :-

:: ORDER ::

1. Application (Exh.132) is hereby allowed subject to costs of Rs.200/- (Rupees Two Hundred Only) payable to plaintiffs.
2. Payment of cost shall be condition precedent for setting aside ex-parte order passed against defendant Nos.4 and 5.
3. Accordingly, application (Exh.132) is disposed of.

(Dictated and pronounced in the Open Court).

Date : 09.09.2025.

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