



Order Below Exh.49 In Regular Darkhast No.78/2012
(Balasaheb Kumbhoje v. Smt. Aakkatai Malwade
and Ors.)

Judgment-debtor Nos.3 to 5 have filed present application for setting aside 'ex-parte' order passed against them.

02. Judgment-debtor Nos.3 to 5 contended that, due to unavoidable circumstances, more particularly mentioned in paragraph No.1 of the present application, they could not remained present in the darkhast and file their say on record. Hence, the darkhast proceeded ex-parte against them. In order to decide the darkhast on merit, opportunity may be given to them to contest the darkhast by filing their say. They lastly prayed that, present application may be allowed.

03. The decree-holder has strongly resisted present application by filing his say on overleaf of present application. He contended that, reasons mentioned in the application are not justifiable. Hence, he prayed that, the application may be rejected with cost.

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 notices (Exh.Nos.08 to 10), judgment-debtor Nos.3 to 5 have not appeared in present darkhast. Hence, as per order passed below Exh.1 on 28.01.2013, the darkhast proceeded ex-parte against judgment-debtor Nos.3 to 5. However, in view of reasons mentioned in the application and submissions of both sides, it would be just and proper to give opportunity to judgment-debtor Nos.3 to 5 to contest the darkhast on merit. Judgment-debtor Nos.3 to 5 have filed present application after considerable lapse of time.

However, the delay caused by judgment-debtor Nos.3 to 5 can be compensated by imposing cost upon them. Considering the delay caused, it would be just and proper to impose cost of Rs.1,000/- on judgment-debtor Nos.3 to 5, which shall be payable to the decree-holder. Resultantly, I pass following order :-

:: ORDER ::

1. Application (Exh.49) is hereby allowed subject to costs of Rs.1,000/- (Rupees One Thousand Only) payable to the decree-holder.
2. Payment of cost shall be condition precedent for setting aside ex-parte order passed against judgment-debtor Nos.3 to 5.
3. Accordingly, application (Exh.49) is disposed of.

(Dictated and pronounced in the Open Court).

Date : 13.08.2025.

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