



Order Below Exh.169 In R.C.S. No.133/2012  
[Gangubai Bhau Koli (deceased) through her LRs. and  
Ors. v. Ratnabai Ganu Koli (deceased) through her LRs.  
and Ors.]

Defendant Nos.4(1), 4(2) and 4(3) have filed present application for setting aside 'ex-parte' order passed against them.

02. Defendant Nos.4(1), 4(2) and 4(3) contended that, due to illness of defendant No.4(1), they failed to appear in the suit. Hence, 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 on overleaf of present application. Reasons mentioned in the application are not justifiable. The application is devoid of merits. Hence, they prayed that, the application may be rejected with cost of Rs.5,000/-.

04. Heard learned advocates for both the 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(1), 4(2) and 4(3) have not appeared in the suit. Hence, as per order passed below Exh.1 dated 01.08.2025, the suit proceeded ex-parte against defendant Nos.4(1), 4(2) and 4(3). 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(1), 4(2) and 4(3) to contest the suit on merit. Defendant Nos.4(1), 4(2) and 4(3) has filed present application after considerable lapse of time. However, the delay caused by defendant Nos.4(1), 4(2) and 4(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 defendant Nos.4(1), 4(2) and 4(3), which shall be payable to plaintiffs. Resultantly, I pass following order :-

**:: ORDER ::**

1. Application (Exh.169) 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 defendant Nos.4(1), 4(2) and 4(3).
3. Accordingly, application (Exh.169) is disposed of.

(Dictated and pronounced in the Open Court).

Date : 04.10.2025.

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