

MHKO180007922024

**Reg. Civil Suit No.179/2024.**



Rajendra Pandurang Jadhav-Patil

*Versus*

Dipak Pandurang Jadhav-Patil

**Order below exhibit 22/D.**

Defendant No.2 has filed this application for setting aside *Ex-parte* order passed against him.

02. Perused the application and say. Heard both sides.

03. It is the contention of defendant No.2 that, he appeared in the suit after service of summons. It is his contention that, he was out of station for his personal work for some time. Hence, he could not manage to meet his counsel to appear in the suit and file his Written Statement/Say. Hence, *Ex-parte* order is passed against him which needs to be set aside. Hence, he has filed this application and prayed to allow it.

04. On the other hand, plaintiff has strongly opposed the application by filing his say. He submitted that, the contents of application are false and frivolous. The reasons stated in the application are not just. Thus, he prayed to reject this application. Alternatively, he prayed to allow the application on imposing costs.

05. Perusal of record reveals that, despite service of summons defendant No.2 did not appear in this suit. Therefore, '*Ex-parte*' order got passed below Exh.1. Perusal of the present application goes to show that the present defendant No.2 has not intentionally failed to appear in this suit. He was prevented by

sufficient cause. This submission is supported by the affidavit. There is no reason to disbelieve the contentions in the application. However, considering the rules of natural justice i.e. principle of *audi alteram partem* i.e. *no party shall be condemned unheard*, the application deserves to be allowed. At the same time, the delay caused needs to be compensated. Hence, I pass the following order:-

**ORDER**

1. Application is allowed subject to costs of Rs.300/- to be paid to the other side.
2. Ex-parte Order passed against defendant No.2 is hereby set aside.

Place: Kurundwad.  
Date: 17/06/2025.

(Smt. V. R. Mane)  
Jt. Civil Judge Jr. Dn., Kurundwad.