



Order Below Exh.18 In Regular Darkhast No.09/2021
(Babu Naik v. Smt. Kusabai Bhagaje and Ors.)

Judgment-debtor No.1 has filed present application for setting aside 'ex-parte' order passed against her.

02. Judgment-debtor No.1 contended that, due to unavoidable circumstances, more particularly mentioned in paragraph No.2 of the present application, she could not remained present in the darkhast and file her say on record. Hence, the darkhast proceeded ex-parte against her. In order to decide the darkhast on merit, opportunity may be given to it to contest the darkhast by filing her say. Hence, she constrained to file present application for setting aside 'ex-parte order' passed against her. She lastly prayed that, the 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.

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 (Exh.07), judgment-debtor No.1 has not appeared in present darkhast. Hence, as per order passed below Exh.1 on 03.10.2022, the darkhast proceeded ex-parte against judgment-debtor No.1. 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 No.1 to contest the darkhast on merit. Judgment-debtor No.1 has filed present application after considerable

lapse of time. However, the delay caused by judgment-debtor No.1 can be compensated by imposing cost upon her. Considering the delay caused, it would be just and proper to impose cost of Rs.500/- on judgment-debtor No.1, which shall be payable to the decree-holder. Resultantly, I pass following order :-

:: ORDER ::

1. Application (Exh.18) is hereby allowed subject to costs of Rs.500/- (Rupees Five Hundred Only) payable to the decree-holder.
2. Payment of cost shall be condition precedent for setting aside ex-parte order passed against judgment-debtor No.1.
3. Accordingly, application (Exh.18) is disposed of.

(Dictated and pronounced in the Open Court).

Date : 05.05.2025.

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