


MHLA050002352022 	R.C.S. No.665/2022 Vasant Vs. State and other
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:: COMMON ORDER BELOW EXH.72 AND 78 ::

The applications are submitted for and on behalf of defendant No.4 to 7. It is submitted that, defendant No.5 was suffering from piles and eye disease. He had undergone surgery, so he was not present. Defendant No.6 and 7 were out of station for study and job. So, they are not properly served. False endorsement of unclaimed article is mentioned by the postal department upon the envelopes of summons. Defendant No.4 to 7 came to know about the suit after receiving information from the villagers. So, it is prayed that, the order passed against them to proceed the suit in ex-parte way may be set aside and their written statement may be taken on record.

02. Say is filed by the plaintiff that, the application is false. On numbers of occasions summons were issued to defendant No.4 to 7 at the employment office. But, summons were not accepted. So, they were issued through R.P.A.D. The R.P.A.D. summons was also unclaimed by defendants. Therefore, ex-parte order was passed against them. The plaintiff led his evidence. When the plaintiff submitted his last witness, present application is filed. The documents filed alongwith the application are of the period from March to November 2025. So, the application is false and frivolous. Therefore, it is prayed that, same may be rejected.

03. Heard advocates for parties. Perused the record.

04. Number of attempts have been made by the plaintiff to serve the suit summons to defendant No.4 to 7 including sending summonses to

his office. The postal endorsement of summons also suggests that, the summons was unclaimed by defendant No.4, who is a police employee. There is no document to show other defendants were taking education. The order to proceed with the suit ex-parte is passed on 06/01/2024. The period undergone under treatment by defendant No.4 is from March-2025 to November-2025. There is no evidence that, he was unaware of the suit before January 2024.

05. Being a policeman defendant No.5 is supposed to know the law much better than a layman. The reason of ailment even if is considered , then also what about the other defendants ? So, it is necessary that the order to set aside the ex-parte proceeding against defendant No.4 to 7 be not set aside. But, as civil rights of defendants might be put at stake, being a trial court it is necessary that reasonable opportunity should be given to them. Considering that the suit has proceeded and the last witness of the plaintiff would be put into the witness box, the time consumed by the plaintiff should be compensated as the suit would again go back to the earlier stage.

06. So, therefore if costs be imposed upon defendants, it would be proper as it will maintain balance between the opportunity to be provided to defendants and efforts taken by the plaintiff to serve upon defendants the notices and the mental agony caused by him. Hence, the order.

ORDER

- 1) The application is allowed subject to costs of Rs.1,000/- (Rupees one thousand only) each to be paid by the defendants to the plaintiff.

- 2) On payments of costs the defendants' to file undertaking that they would not seek adjournments unnecessarily and without justifiable reasons.

Sd/-

{ S.N.Sarde }

Civil Judge Senior Division,

A h m e d p u r.

Date : 16/02/2026.