

MHLA090052172023



Cri.M.A. No. 662/2023
Suvarna Vs. Dhiraj and ors.

ORDER BELOW EXH.9

1. This is an application filed by the non-applicant for setting aside the 'No Say Order' passed against him below Exh.1.
2. It is the contention of the non-applicant that he came to be served with the notice of the application, however since the instant application is e-filed and as he could not get the copies of the application, he was unable to file his say thereon. Further he has submitted that his said act is unintentional and accidental one. If he is not permitted to participate in the proceeding he would cause such a loss which cannot be compensated in terms of money. Ultimately, he has prayed to allow the instant application.
3. The instant application is moved on 30/09/2024 and since then it has been pending for filing say by the applicant thereon. On last date the applicant has solicited for a short date for filing her say thereon. Upon her request, the application was kept on today's board. However, today she neither appear before the Court nor filed her say even through e-filing as well. Hence, considering the nature of the application and already more than enough opportunities being extended to the applicant, this application is taken up for decision accordingly.
4. According to the non-applicant, since he could not get the copies of the application within time, he was unable to file his say thereon. Though the non-applicant has come with this reason, still the said reason do not appear to be justifiable and plausible as well. Be that as it may, an opportunity needs to be extended to the non-applicant to participate in the proceeding. Further, it would result in effective execution of orders hereinafter passed. Thus, by observing principals of natural justice the application needs to be allowed. At the same time delay caused and protraction resulted due to the act of the non-

applicant needs to be taken care of by imposing costs on the failure party. Hence, the application is allowed subject to costs of Rs.1000/- to be paid into the Court on today itself. Payment of costs is condition precedent. Order accordingly.

Date : 03.12.2024

(Bhalchandra R. Zende)
Judicial Magistrate (F.C.),
(Court No.4), Udgir.