

**Order below Exh.69 in RCS No.439/2016**  
**Sk. Bashir Vs. Sk.Nazam**

By this application plaintiffs have requested to strike out the defence of defendant Nos.1 to 3 on their failure in complying with order dated 19/01/2023 passed at **Exh.68** by which they were directed to produce original or photocopy of sale deed/s by which Sy.No.68 (old Sy.No.52) came to be purchased by the father of defendant No.1. Defendant Nos.1 to 3 failed to file their say. Perused application. Heard learned advocate Shri.Walande for plaintiffs. Record shows that plaintiffs have filed this suit for declaration. Defendant Nos.1 to 3 have filed their WS at **Exh.17** and the suit is proceeding ex-parte against defendant Nos.4 and 5.

2. Record further shows that plaintiffs moved an application at **Exh.68** for directing defendant Nos.1 to 3 to produce original or photocopy of sale deed/s by which Sy.No.68 (old Sy.No.52) came to be purchased by the father of defendant No.1, which came to be allowed by order dated 19/01/2023 and defendant Nos.1 to 3 were directed to produce the said document/s. Till date, defendant Nos.1 to 3 have not complied with the said order nor they have sought extension of time. It appears that defendant Nos.1 to 3 are not interested in complying with the said order. Before going into the merits of this application, the Court has to see as to under which provision the application at **Exh.68** was filed by plaintiffs because failure of its non compliance has different results. The application at **Exh.68** doesn't disclose the provision of law under which it was filed. Therefore, it seems that the said application at **Exh.68** was filed by plaintiffs under Order VII Rule 14 CPC. Its remedy on failure of non production of documents, inspite of the order of the Court, is provided in Order XIII Rule 2 CPC. Thus, striking of defence for non compliance of the order at **Exh.68** will be very harsh and may cause injustice on defendant Nos.1 to 3. Other efficacious remedy, as mentioned above, is available to plaintiffs. Hence, I pass following order:-

**ORDER**

1. Application is rejected.
2. No order as to costs.

Date :08/02/2024

Sd/-  
(Ashish B. Marlecha)  
Civil Judge (Sr.Dn.),  
Nilanga, Dist. Latur.