

Order below application vide Exh.62 for in Rcs.393/2017
Sumitra Vs. Subhash & Ors.

1. Perused contents of the application and say thereon. Heard to learned advocates for the parties. They submitted contents of application and say thereon respectively.

2. Perused the record. The application discloses that, the plaintiff is living at village Wadval Tq.Chakur Dist.Latur. It was continuously raining. Due to raining, the roads were blocked. The plaintiff was also ill. Therefore, she remained unable to remain present. Evidence of the plaintiff was discarded on 12.09.2025. It is necessary to bring the plaintiff's evidence on record. The suit is respect to immovable property. Therefore the plaintiff prayed to set-aside order dated 12.09.2025 passed below Exh.1, discarding the plaintiff evidence. The defendant contended that the plaintiff and her advocate were absent. The plaintiff is not serious about the suit. She is causing trouble to the defendants. Reasons in the application are not proper and are vague. The plaintiff is absent since last many dates. There is no evidence supported to the reasons. The reasons are not believable. The plaintiff is prolonging the matter. Therefore, the defendant lastly prayed to reject the application.

3. However, the present application is supported with affidavit vide Exh.63 whereby the plaintiff affirms about contents of the application, Furthermore, the suit is for partition and separate possession. The parties are alleged to have been relatives and members of the joint family. The suit property is alleged to

have been ancestral and belongs to the joint family. In such circumstances, opportunities of hearing will have to be given to the defendants. Furthermore, affording such opportunity will be helpful to decide real controversies between the parties finally on merits and to avoid multiplicity of the suits and proceedings. The parties will have an opportunity to lead their evidence as well as cross-examine the witnesses of each other. Therefore, no prejudice would be caused to the defendants, if the opportunity is afforded as aforesaid. Undoubtedly, there is delay, but in the above facts and circumstances, the delay may be compensated with the costs. Hence, in the interest of justice, order dated 12.09.2025 passed below Exh.1, discarding the plaintiff's evidence is hereby set-aside, subject to costs of Rs.1000/- to the defendant Nos. 8 and 9.

Date :29/10/2025
Place: Nilanga

(R. V. Pande)
Civil Judge, Senior Division, Nilanga,
District Latur.