



ORDER BELOW EXH.22

1. The defendant no.3/1 has filed the present application praying that exparte order passed against him be set aside.

2. It is contended by the defendant no.3/1 that the summons was not served to him as he working as a soldier at Jhashi State Uttar Pradesh. The summons received by his brothers wife. She failed to inform it to defendant no.3/1. This fact known to him when he care to his native at Nitur. Thus, the delay of 95 days caused and consequently exparte order passed against him. Now, he wants to appear in the matter and prayed to allowing the application. plaintiff filed his say behind the application and strongly objected the application.

3. Heard the Ld. Advocate of respective parties at length.

4. Perused the record. It appears that suit is filed for partition of suit property. As per report at Exh.14 suit summons served to defendant no.3/1 on 08.07.2024. But, he failed to appear on the date fixed for his appearance. Therefore exparte order passed against him on 03.10.2024. On the same day, this application is put up by the defendant no. 3/1. The reason of his failure is given by the defendant no. 3/1 that he working as a soldier at Jhashi State Uttar Pradesh. After 95 days , he appeared. The said delay is not properly explain by defendant no.3/1. There

is no evidence in that respect, but the plaintiff also not challenged it. If the application is rejected then the defendant no.3/1 definitely will suffer irreparable loss as he will be deprived from putting his written statement. However, if application is allowed, the applicant will not suffer any loss except delay. Therefore, considering the reason mentioned in the application, it will be proper to allow the application with cost of Rs.100/-. Hence, I pass the following order-

ORDER

1. Application is allowed subject to costs Rs.100/-.
2. Exparte order passed against the defendant no.3/1 is hereby set aside.

Date : 22/10/2024

Sd/-
(Smt. A.S. Gunjwate)
2nd Jt. Civil Judge J.D. Nilanga.