

MHLA120027462023 	R.C.S. No.552/2023
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ORDER BELOW EXH.23

The defendant no.2 has filed the present application praying that ex-parte order passed against her be set aside.

2. It is contended by the defendant no.2 that she has served the suit summons. But due to old age and illness, the defendant No.2 was failed to appear and consequently ex-parte order passed against her. Now, she wants to appear in the matter and prayed to allowing the application. Plaintiff filed his say behind the application and strongly objected the application. He submitted that the application is not true and correct. The defendant no.2 intentionally and deliberately appeared and filed her written statement. The reason of her failure is not just and proper. Hence, he prayed to reject this application with heavy cost.

3. Heard the Ld. Advocate of plaintiff and defendant no.2 at length.

4. Perused the record. It appears that suit is filed for partition of the suit property. As per report at Exh.8, the suit summons served to defendant no.2 on 05.03.2024. But,

she failed to appear on the date fixed for his appearance. The date on which the date of appearance of defendant no.2 was fixed I.e on 12.03.2024. The defendant no.2 filed his appearance pursis and sought for adjournment to file her vakaltnama. This record disclose that she is not deliberately prolonged. The suit is for partition of the suit property. The defendant No.2 may be any legal right in the suit property. If the application is rejected then the defendant no.2 definitely will suffer irreparable loss as she will be deprived from putting her written statement. However, if application is allowed, the plaintiff 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.200/-. Hence, I pass the following order-

ORDER

1. Application is allowed subject to costs Rs.200/-.
2. Ex-parte order passed against the defendant no.2 is hereby set aside.

Date : 13.11.2025. Place : Nilanga.	(Smt. A. S. Gunjawate.) Jt. Civil Judge, Jr. Divi., Nilanga. District Latur.
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