

Order below Exhibit. 46.

This is an application filed by defendant no. 1,2,3 and 6,7,8 for setting aside no evidence order dated 11.07.2019. As per defendants, due to unavailability of necessary document and defendant no.1 is extreme old age lady and she is suffering from various diseases, therefore she is taking Ayurvedic treatment. Defendant no. 1 and 2 are old age and they are sick persons. Defendant no. 3 is maintaining himself by doing daily wages work, therefore they could not contact to advocate. Defendant no. 6,7 and 8 also having personal and family problem and due to illness they could not contact advocate. Defendants not prolonging matter deliberately. Hence, no evidence order passed against them on dated 11.07.2019 be set aside.

2. On the other hand learned advocate for plaintiffs submitted that, defendants have no any justifiable reason and no any documentary evidence as per their contention in an application. Hence, they prayed for rejection of application.

3. Considering opportunities given to defendants, for leading evidence, oldness of matter and the reasons mentioned in application is not sufficient, hence the application is liable to be rejected. But only giving reasonable opportunity and fair hearing of the matter and the matter is regarding immovable property and rights of the defendants are involved in it, one last chance should be given to defendants. So to give proper opportunity to defendants and to decide matter on merit, the application needs to be allowed. But considering delay and wastage of time of court some costs should be imposed. Hence, following order.

ORDER

1. Application is allowed subject to costs of Rs. 100/- each along with remaining costs pending if any to be paid to plaintiffs on or before next date.

2. No evidence order dated. 11.07.2019 be set aside after payment of costs.
3. Defendants are directed not to seek adjournments, failure of which will resulted into forfeiture of their evidence.

(Yogesh D. Koinkar)
Jt. Civil Judge(Jr.Dn.),
Chakur

Date : 18.09.2019.