

Spl. Civil Suit No. 33/2019
Lalita Vs. Shirin

ORDER BELOW EXH. 27

(Passed on this 15th of April 2025)

Defendant Shirin despite service of suit summons, did not appear. Therefore, order was passed below Exh. 1 on 30-09-2019 directing that suit shall proceed exparte against defendant. This application has been filed on 6-9-2022 by the defendant to set aside the above order and to permit her to file W.S. She submits that her husband was suffering from pancheriatric attack and was hospitalized. Therefore, she could not contact the Ld. Advocate. Thereafter, her Ld. Advocate was affected in the second phase of Corona Virus. As such, she could not contact her advocate. Therefore, she could not appear and file the W.S. Plaintiff has opposed the application vide reply Exh. 31. She contends that application is barred by limitation. She has already adduced exparte evidence. This application is filed to prolong the matter.

2] Today none has appeared for defendant till 1.00 pm. I have heard Ld. Advocate for plaintiff. He has made submissions on the line of his say.

3] Question is whether above order can be set aside and defendant can be allowed to file her W.S.

4] Plaintiff Lalita has filed suit seeking cancellation of registered sale-deed No. 2284/2016 dated 14-06-2016 on the ground of non payment of balance consideration of Rs. 4,00,000/-. Today her application Exh. 26 seeking amendment in the plaint to add the alternative prayer for recovery of such amount, has been allowed. On 26-11-2024, application Exh. 29 moved by third person seeking addition of party, was allowed. Such third person is now defendant No. 2. Defendant No. 2 in her other suit has claimed ownership of the suit property by way of adverse possession. Sale-deed is in favour of defendant No. 1. It is in this context, I think that participation of defendant No. 1 is necessary and if the W.S. of defendant No. 1 is taken on record, it will facilitate the just and effective disposal of this matter. Therefore, though defendant No. 1 has not adduced any documentary evidence in the form of medical papers to support her contention of the illness of her husband

and of the illness of her Ld. Advocate, yet in the above background, I come to the conclusion that exparte order can be set aside. Copy of proposed W.S. is annexed to this application. Therefore, I pass following order.

ORDER

1. Ex-parte order dated 30-09-2019 is set aside and defendant No. 1 is allowed to file W.S.
2. Application is accordingly allowed.

Umred.
Dated: 15/04/2025.

[S. G. Landge]
Civil Judge Sr. Dn., Umred,
Dist. Nagpur.

Certificate

I affirm that the contents of this P.D.F. file are word to word same as per original.

Name of Stenographer : Mrs. D.T. Vighne
Stenographer (Grade II)