

Reg. Civil Suit No.42/2021

Maruti Rangnath Aher
Vs.
Tanyabai Laxman Aher & ors

ORDER BELOW EHX.11

1. The present application is filed on behalf of defendant Nos.1 to 11 for setting aside ex-parte order passed against them.

2. It is submitted that, on 17/04/2021 the court was directed to remain present before the court to the present defendants. However, due to Covid- 19 Pandemic the court function was not regular. Therefore, they could not file Vakalatnama in the present case. They are having valid defence in the suit. Further, their valuable rights in the immovable property are involved. If the said order is not set aside they will suffer. Therefore, requested to set aside the ex-parte order passed against the present defendants.

3. The plaintiff by filing his say objected the application and requested to reject the application by imposing cost.

4. Perused application and say. Heard both the sides at length. The defendant No.7 in support of their application filed his affidavit. The present suit is for possession of encroached land and other consequential reliefs. The suit summons were served on the defendants vide Exh.7 on 16/03/2021. The present application filed in the month of July 2021. Admittedly, the suit is for possession of the

immovable property. The valuable rights of both parties were involved in the suit property. To decide the suit on merit, it required to come on record the defence of the defendants. Therefore, the ex-parte order needs to be set aside. So far as, default caused by the present defendants is concerned, it can be cured by imposing certain cost. Hence, I inclined to allow the application on cost. Thus, following order.

- ORDER -

1. Application is allowed subject to cost of Rs.300/- (Rs. Three hundred only).
2. The ex-parte order passed against defendant No.1 to 11 is hereby set aside subject to cost of aforesaid cost.

Date :- 19/11/2021

(A. S. Kambale)
Civil Judge, J.D., Yeola (Nashik).