

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE, YEOLA,
DIST – NASHIK
(Presided over by Shri. M. I. Lokwani)**

**Civil Misc. Application No.01 of 2023
(CNR NO. MHNS270028782023)**

ORDER BELOW EXH. 27

Present application filed by defendant Shabbir Ajij Shaikh for setting aside “No Say Order’ dt.05.03.2024.

2. It is submitted that if opportunity not given to the defendant then defendant would not able to putforth his contention before the Court and the application will not be decided on merit and it will caused irreparable loss to the defendant. Hence, prayed for allow the application.

3. On the other hand, plaintiff filed reply at Exh.30 and raised strong objection and submitted that delay is caused intentionally therefore, there is no reason to set aside the “No Say” order dated 5.3.2024. Lastly, prayed to reject the application.

4. Today, heard both sides and gone through the record, it appears that this particular suit related to Trade Mark issue, bearing No.01/2023. In the said suit plaintiff seeks relief against the defendant regarding “Logo”/Trade Mark in respect of business of Saishraddha Paithani. According to plaintiff there is breach of provisions of Trade Mark and seek relief that to direct the defendant to change the name of his shop. Hear it may be noted that

application below Exh.19 filed for interim stay, wherein defendant appeared but remain absent. Hence, Predecessor of this Court proceeded the applicant without/”No Say”. The said order is passed on 5.3.2024. The application of stay alongwith main application required to be decided on merit. If the opportunity given to the defendant then it will not caused prejudice to the plaintiff. On the contrary, it will be helpful to decide the application/suit on merit. If defendant not allowed to put-forth his contention by way of reply then he will suffer great hardship. The said order passed on 5.3.2024 and application is filed on 02.8.2024, which shows after five months of order, this application is filed which shows delay on the of defendant. Therefore, while giving opportunity to the defendant it would be proper to impose necessary cost upon the defendant. In view of aforesaid reason and discussion application deserves to be allowed on costs. Hence, I proceed to pass following order :

ORDER

- 1) Application below Exh.27 is allowed on cost of Rs.1000/- .
- 2) After payment of costs reply of defendant on interim application as well as main application will be taken on record and will be exhibited.
- 3) In view of above terms, application at Exh.27 is disposed off accordingly.

Date :12-08-2025

(M.I. Lokwani)
District Jude-1, Yeola.