

MHPU240004872010



ORDER PASSED BELOW EXH. 96

Kondibhau Walunj Vs. Krushna Walunj (deceased) & ors.

Read the application and say filed by plaintiff on the overleaf of application. Perused the matter on record. Heard learned counsels appearing on behalf of both the parties.

2] This is a suit for the relief of declaration and Perpetual Injunction. The present application is filed for setting aside evidence closed/no cross order dated 04.07.2024 passed below Exh.01 against the defendants. It is submitted that, at Exh. 93 evidence on affidavit of DW-1 was given thereafter as per Exh. 94 plaintiff took adjournment. Lastly matter was fixed on 27.06.2024 and on the said date Ld. Advocate for the defendant was present. Thereafter, matter was fixed on 04.07.2024 but daughter of DW-1 was ill due to hepatitis and uncle of DW-1 was also demised. Therefore, mental condition of DW-1 was not good. Thereby, he had not come in the Court. Hence, he prayed to allow the application.

3] By filing say, the Ld. Advocate appearing for the plaintiff submitted that, application is not true and bonafide. There is no any satisfactory ground. On 14.12.2023 defendant had filed his evidence on affidavit. Matter is more than 14 years old. To prolong the matter defendants deliberately filed such application. Lastly he prayed to reject the application or otherwise to impose heavy cost if the same is allowed.

4] Perusal of record shows that, the defendant no. 1 to 6 filed their evidence on affidavit on 14.12.2023 at Exh.93. On 04.07.2024 the

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defendants and their learned advocate remained absent, hence evidence of defendant no. 1 at Exh.93 was struck off and evidence of defendants was closed.

5] It is epochal to note that, no any documentary proof in regard of his daughter's ill health and death of uncle is filed on record. Moreover, the grounds mentioned in this application are not satisfactory. But considering the fact that, on 04.07.2024 itself this application at Exh. 96 is filed on record by Ld. Advocate for the defendants. Considering the nature of suit and to grant an opportunity to defendants as well as in the interest of justice I pass the following order;

ORDER

- 1] Application (Exh.96) is allowed at the cost of Rs.500/-payable to the plaintiff.
- 2] The order dated 04.07.2024 passed below Exh. 01 is hereby set aside.

Date : 12/07/2024

(Smt. S. N. Hurgat)
Civil Judge Junior Division,
Ghodegaon