



Regular Civil Suit No.9/2021

Shri. Datta Bhiva Misal and others

Vs.

Shri. Pratap Hiralal Kataria and others

ORDER BELOW EXHIBIT 37

This is application filed by defendant No.5 under Order 9 Rule 7 of C.P.C. for setting-aside ex-parte order.

02. The defendant has submitted that he does not know about the said suit and the postman has not given any intimation to him. There is wrong remark mentioned in R.P.A.D. post envelope. Hence, my learned predecessor has passed the order below Exh.1 dated 13/12/2021 and suit proceeded ex-parte against him. If the application is not allowed, then he will suffer irreparable loss. Hence, prayed to allow the application.

03. The learned advocate for plaintiff has filed his say at Exh.41 and submitted that contents of the application are not true and correct. No documentary evidence has been filed by defendant No.5 on record. Defendant No.5 has served with suit summons properly. Defendant No.5 has appeared after filing affidavit of chief examination of plaintiff. Hence, prayed to reject the application.

04. Perused the application and say. Perused the record of the case. The suit involves the valuable rights of the parties. Sufficient opportunity is required to be given to the

parties to defend their case. My learned predecessor has passed ex-parte order against defendant on 13/12/2021. This application is filed by the defendant on 12/02/2025. Considering these facts and considering the reasons and the nature of the suit, it would be just and proper to allow the present application as it will not cause any prejudice to plaintiffs. However, considering the delay for filing this application, it would be just and proper to saddle defendant with costs. Considering this, I pass the following order.

ORDER

- 1) The application is allowed subject to cost of Rs.3,000/- (Rs. Three thousand) to be paid to plaintiffs on or before next date.
- 2) Ex-parte order dated 13/12/2021 passed against defendant No.5 will be set-aside on payment of cost mentioned as above.

Place – Karjat
Date - 05/03/2025

(Smt. A. S. Wadkar)
Civil Judge, J.D., Karjat,
District - Raigad