



ORDER PASSED BELOW EXH. 59

1. This is an application filed by defendant No. 3, 5 and 8 for setting aside ex-parte order passed against him on the grounds mentioned in the application. The application is supported along with affidavit. The defendant are absent due to their personal difficulties, they are not intentionally absent to put their appearance in the suit. Defendant wants to contest the suit and so they prayed for setting aside ex-parte order.

2. Plaintiff in his say stated that, necessary order be passed.

3. Perused the application and say. Heard the Ld. Counsel appearing for Defendant and plaintiff. The record shows that the summons were issued against the defendant, but they failed to put his appearance, therefore the suit is ordered ex-parte against them. The grounds disclosed in the application are supported by an affidavit. It needs to mentioned that, there is no counter affidavit. There is nothing on record to doubt the statements made in the application supported by an affidavit. The suit is for declaration and injunction, involving the civil rights of the parties. The reason stated by the defendant appeared to be sufficient ground to explain his absence on the date of appearance fixed. This court being the court of first instance, it is

necessary to give an opportunity to the parties in the larger interest of justice to take the case to its logical end by just and legal conclusion. This requires granting of an opportunity to the defendant to participate in the suit. In view of this, I think it fit to allow the application and pass following order-

**ORDER**

1. The application Exh. 59 is allowed.
2. The ex-parte order dated 15/12/2023 in respect of defendant no. 3, 5 and 8 is set aside subject to cost of Rs. 500/-.
3. Costs be paid to plaintiff.

Khalapur:  
Date : 29/02/2024

( R.D. Wabale )  
Civil Judge Jr. D. Khalapur.