

ORDER BELOW EXH. No. 22

This is an application moved by defendant No.1 & 2 to set aside Ex-parte order dated 31/01/2024 and for permission to take their written statement on record. According to defendant No.1 & 2, defendant No.1 was living in the year 2022 in foreign country. Therefore, he is not able to attend the Court and defendant No.2 due to illness of her daughter, she could not able to attend the Court. Thus, Ex-parte order was passed against them. Therefore, they prayed to be set aside the ex-parte order and allow them to file their W. S. on record. The plaintiff strongly opposed to the application on the ground that application did not have any justified ground to set aside ex-parte order. Summons was served on defendants. Sufficient opportunity was given to defendants but they failed to attend the Court. Hence, he prayed to reject the application and alternatively claim costs.

2] I have gone through the record and proceeding. Record shows that, Ex-parte order was passed on 31/01/2024 against defendant No.1 & 2. The present suit was filed against defendant No.1 & 2 for partition. Therefore, substantial right and interest of defendant No.1 & 2 is involved in present suit. In such situation, In view of principle of natural justice and for fair trial, it is necessary to give chance to defendant No.1 & 2 to appear and put their defence. If, application is rejected, then great prejudice will caused to defendant No.1 & 2. Thus, in view of principal of natural justice

:: 2 ::

Reg.Civil Suit No. 12/2023
A. Malik Sonde Vs. Saukat Sonde & Ors
CNR No. MHRG1300-0146-2023

application deserved to be allowed. Considering delay, costs of rupees 500/- need to be imposed on defendant No.1 & 2. Hence, the following order.

:: **ORDER** ::

1. The application is allowed subject to costs of Rs. 500/- (Rupees five hundred only) to be paid to plaintiff on or before next date.
2. On payment of costs ex-parte order against defendant No.1 & 2 will be set aside and their written statement be taken on record.

Shrivardhan
Date: 28/02/2025.

(Shri. A. S. Satote)
Civil Judge Junior Division,
Shrivardhan