

MHRG140013162016



ORDER BELOW EXHIBIT 143

1. This is an application preferred by the Plaintiff to set aside the 'No Say' order passed against them.

2. The Plaintiff contends that the present suit is filed for declaration and ancillary reliefs. The Plaintiff avers that Defendant No. 3 filed an application under Order VII Rule 11 of the Code of Civil Procedure (CPC). The Plaintiff claims to have prepared a say, but before it could be filed, the Court passed a 'No Say' order. The Plaintiff asserts they were unaware of this order, hence no separate application was moved earlier. They pray that in the interest of justice, the 'No Say' order be set aside, and they be permitted to file their say, as it will not prejudice the defense.

3. Defendant No. 3 strongly resisted the application by filing a say at Exhibit -144. It is contended that the Plaintiff's application is entirely misconceived. Defendant No. 3 points out that they never filed any application under Order VII Rule 11 CPC. Instead, they filed two

RCS 19/2017
Sachin Vs. Shailesh
Exh-143

applications at Exhibit -139 (for framing additional issues) and Exhibit 140 (for inquiry under Section 8 of the Court Fees Act) on 08.10.2024. As the Plaintiff failed to file a say for over a year, the Court rightly passed a 'No Say' order on 05.11.2025 in the presence of the Plaintiff's advocate. Defendant No. 3 argues that the Plaintiff is trying to mislead the Court and prays for rejection of the application with costs, or alternatively, imposition of costs of Rs. 10,000/- on the Plaintiff.

4. Heard both sides. Perused the record. Upon perusal, it is evident that the Plaintiff drafted the present application under a gross misconception of facts. The record reflects that Defendant No. 3 filed applications at Exhibit-139 and Exhibit -140 on 08.10.2024, not under Order VII Rule 11 CPC. It is an admitted position that the Plaintiff did not file any say to these applications for over a year, leading to the 'No Say' order dated 05.11.2025. The Plaintiff's contention of being unaware of the order appears to be an afterthought.

5. The conduct of the Plaintiff is undoubtedly negligent. However, it is a well-settled principle of law that substantive applications should preferably be decided on their merits rather than on technical defaults, to afford a fair opportunity of hearing. The applications at Exhibit -139 and 140 involve crucial aspects like framing of issues and valuation

of court fees. Denying the Plaintiff an opportunity to contest them might lead to a miscarriage of justice.

7. Therefore, to balance the scales of justice, I am inclined to allow the present application, but the negligence must be compensated by imposing reasonable costs. A cost of Rs. 1,000/- is appropriate in the present facts. Hence, following order;

ORDER

- [I] The application at Exhibit 143 is allowed subject to payment of costs of Rs. 1,000/- (Rupees One Thousand Only) to be paid by the Plaintiff to Defendant No. 3.
- [II] The 'No Say' order passed on 05.11.2025 against the Plaintiff on the applications at Exhibit -139 and Exhibit -140 is hereby set aside.
- [III] The Plaintiff is permitted to file their say on Exhibit -139 and Exhibit- 140.
- [IV] If the Plaintiff fails to pay the costs on or before the next date, this order shall automatically stand vacated.

Uran,
Date- 01.04.2026

S. P. Wankhade
Civil Judge J. D. Uran