

MHRG170003012023



IN THE COURT OF DISTRICT JUDGE-1 PANVEL-RAIGAD
AT : PANVEL
ORDER BELOW EXHIBIT NO.42 IN DARKHAST NO.2/2023

01] The judgment debtor has filed present application for setting aside Ex-parte order passed against it on 24.02.2025.

02] It is stated by judgment debtor that, previous advocate appointed by it has failed to advice or take proper and necessary steps in the matter in-spite of constant follow ups by it. As result of this Ex-parte order was passed against it without its fault. Further it is stated that, the Ex-parte order was passed due to deliberate, willful disobedience and contumacious conduct on the part of previous advocate and not because of judgment debtor. Therefore if the Ex-parte order is not set aside the judgment debtor will suffer irreparable loss, injury and prejudice, whereas no prejudice will cause to decree holder, if present application is allowed. Hence it is prayed by judgment debtor that Ex-parte order passed against it on 24.02.2025 be set aside.

03] The decree holder resisted the application by filing reply vide Exhibit No. 44. It is stated that the judgment debtor has filed present application after a delay of nearly 3 years without giving any cogent and sufficient cause for its absence. In the absence of any explanation, much less a legally sustainable one. No case is made out for setting aside the Ex-parte Order. Hence it is prayed by decree holder that the application be rejected.

04] Heard learned advocate Shri. Preetesh Burad for judgment debtor and learned advocate Shri Pratik Pujari for decree holder. Peruse application say filed by decree holder vide Exhibit No. 44 and other documents placed on record.

05] Both the learned advocates have made their respective submissions on the line of averments made in the application and say respectively.

06] It is pertinent to note that, present application is supported by the affidavit of one Mr. Ganesh Anil Patkar on behalf of judgment debtor. Wherein he has specifically stated the reason for non appearing in the present execution proceeding. It is well settled that party should not suffer for the negligence of their legal representative, especially in procedural matters. As the present application is supported by affidavit there is no reason to disbelieve the version of judgment debtor.

Further more the application itself is self explanatory. The application contains the reason for non appearance of judgment debtor in present execution proceeding. In such circumstances a separate application u/s 5 of The limitation Act is not mandatory. Considering the aforesaid aspects and nature of lis it is necessary to give an opportunity of being heard to judgment debtor. Hence I pass the following order.

ORDER

1. The application is allowed.
2. The Ex-Parte order passed against judgment debtor on 24.02.2025 is hereby set aside, subject to cost of Rs. 10,000/- to be paid to decree holder within the period of one month from the date of this order.

Panvel
Date: 14/01/2026

(S. R. Ugale)
District Judge-1, Panvel

CERTIFICATE

I affirm that, the contents of this P.D.F. file judgment/ order are same, word to word, as per the original Judgment.

Name of Stenographer : S. J. Sheth (Grade 1)
Dictation given on (direct) : 17/01/2026
Order signed by PO on : 17/01/2026
Order uploaded on : 19/01/1026