

ORDER BELOW EXH.38 IN MISC. CIVIL APPEAL NO.2/2025
(CNR NO: MHRT040000802025)
(Komal Sandeep Bhambid Vs. Subhash Anant Palkar & Ors.)

1. The present application is filed by respondent No.1 for setting aside “exparte and no say” order passed against him on dated 14.01.2026. It is contented that it was stated in the roznama dated 02.07.2025 that the notice was served on respondent no.1 and he was present before the Court. Therefore, exparte order was passed on 14.01.2026. However, appellant further stated that notice was not served on him and he was never present before the Court. He wants to decide the present appeal on merits. Hence, prayed to allow the application.

2. The appellant objected the application by filing say, stating that on 02.08.2025 the respondent No.1 and 2 appeared in the appeal vide address memo Exh.18. Thereafter, due to non-filing of say within time, no say order was passed. The present application is filed to prolong the matter and hence, liable to be rejected. Hence, prayed to reject the application. It is also prayed that if court thinks to allow the application, heavy costs be imposed.

3. Heard. Perused the application and the say. On perusal of the record, it reveals that the notices issued to respondent No. 1 vide Exh. 10 and Exh. 14 were returned unserved on 30.06.2025. Further, the roznama indicates that respondent Nos. 1 and 2 have filed an address memo at Exh. 18 and an adjournment application for filing vakalatnama and say at Exh. 19. However, on perusal of

Exh. 18 and Exh. 19, it appears that the documents are not signed by respondent No. 1, namely Subhash Anant Palkar. Thus, it prima facie shows that respondent No. 1 has not appeared in the present proceedings, and no ex parte order has been passed against respondent No. 1.

4. On further perusal of the record, it reveals that a “no say” order was passed against respondent No. 1 below Exh. 5 on 14.01.2026. Thereafter, on 04.03.2026, respondent No. 1 appeared through learned advocate, filed an address memo, and preferred the present application. Though respondent No. 1 was not duly diligent, considering that valuable rights of the parties are involved and are to be adjudicated, it is necessary to afford a fair opportunity to respondent No. 1. Hence, in the interest of justice, the present application deserves to be allowed. Hence, following order.

ORDER

1. Application is allowed.
2. Cost in cause.

Khed.
Date-01/04/2026.

sd/-
(V. G. Patil)
District Judge – 2, Khed.

Certificate

I affirm that the contents of this pdf file order are same word as per original order.

Name of Stenographer : S.K.Inamdar

Court Name : District Judge 2, Khed.

Date of Decision : 01.04.2026

Order Signed by P.O. on : 01.04.2026

Order uploaded on : 01.04.2026