

**R.C.S.No.69/2021**

Gangaram Rawool

Vs.

Nagesh Rawool etc.

CNR:MHSI05-0006142021

**Order passed below Exh. 45**

Perused the application and say filed by defendant no.1 upon it. Heard both sides. Perused the record. It reveals that suit proceeding is more than one year old. Record also reveals that, plaintiff has filed the present suit for seeking relief of declaration, permanent injunction and alternatively, recovery of open possession in respect of the suit properties and alleged sale deed dated 01.03.2016. Record reveals that defendant No. 1 has filed application (Exh.33) on 23/12/2021. In spite of giving sufficient amount of time plaintiff fails to file his say upon same application. Resultantly, no say order is passed against plaintiff on 14/09/2022. Subsequently, application proceeds further without say of plaintiff. Reasons mentioned in the application are not proper and just. Delay is much. Delay is not properly explained. However, in order to solve real dispute between parties and proper adjudication say of plaintiff is must. It has to be came on the record. However, delay caused to hearing of present application and suffering caused to defendant No.1 must be compensated. Hence, in view of principle of natural justice and above discussion application deserves to be allowed subject to costs. Hence, I proceed to pass following order-

**ORDER**

1. The application is allowed subject to costs of Rs.500/- (Rs. five Hundred only). Costs amount

be paid to defendant No.1 on or before next date. In default, effect of this order will be vacated.

2. After compliance of the costs, plaintiff is permitted to file his say upon application at Exh.33.
3. No say order dated 14/09/2022 is hereby set aside.

(Pronounced and dictated in the open Court.)

Sd/-

(K.K.Patil)

Date : 17/01/2024.

Civil Judge, Jr.Dn., Vengurla.