

Order below Exh.51 in R.C.S.No.265/2021
(Sarjerao Kadam / Ujjwala Lad)
CNR MHSN02-001700-2021

This is the application for setting aside no argument order passed against defendant below Exh.46. According to defendant, the matter is fixed for arguments on application at Exh.46. However, the present application at Exh.46 was made on 18.06.2025 and plaintiff filed his say on 03.10.2025. Accordingly, Ld. Advocate for defendant was ready for arguments, but on 19.01.2026, this Court was busy in hearing of other matters on the cause list. Afterwards, Ld. Advocate for defendant went to the office of Charity Commissioner for his cases. Still, the no argument order has been passed against defendant. If the said order is not set aside, then it will cause irreparable loss to the defendant. There is no intentional delay from defendant to argue on the application at Exh.46.

2. Plaintiff resisted the application and filed say overleaf. He prayed for rejection of application and in alternative, allowing the application on costs of Rs.1000/-.

3. Heard both sides. Perused the record. It occurs from record that the application at Exh.46 was made on 18.06.2025. Plaintiff filed his reply to that application on 29.10.2025. Since then, the matter was put for hearing on that application. The Roznama of present case has marked the presence of defendant's Ld. Advocate on 01.12.2025. However, he is looking to be absent on next dated i.e. 01.01.2026. If defendant is claiming the presence of his advocate in the morning session of 19.01.2026, then she is also answerable for not submitting oral arguments on 01.12.2025 and 01.01.2026. Sufficient time was given to defendant to argue on that application. However, mere reason that Court was busy in another hearing cannot be justifiable as there should be an endeavour

from the side of defendant to submit oral arguments as early as possible. Arguing on the application made by the party herself, on her own whims and fancies cannot be allowed. In that sense, the conduct of defendant does not look diligent. Therefore, concerned order has been passed by this Court. However, in order to provide the defendant every opportunity to have oral arguments before the Court, it will be proper to set aside the said order subject to payment of some amount of costs payable to plaintiff. Accordingly, I pass following order.

ORDER

1. Application is allowed subject to payment of costs of Rs.150/- payable to plaintiff.
2. Both parties to argue on Exh.51 on next date without fail, otherwise appropriate orders will be passed against them.
3. Both parties to take note.

Sangli
Date:-23.02.2026

(O. S. Shastri)
5th Jt. Civil Judge Jr. Dn., Sangli