

Order below Ex. 21 in RCS 68/2017
Ramesh & Ors Vs Panda & Ors

The application is on behalf of defendant 1.1 seeking to set aside no WS order and defendants 1.2 to 1.7 and 2.1 to 2.3 setting aside of ex-parte order.

2 Perused the application, say, and the record.

3 Heard the Ld. advocate for plaintiff. None present for the defendants. The contention in the application is treated as the arguments to avoid prejudice.

4 The suit is for a decree of removal of encroachment etc., The original defendant 1 passed away during the pendency of the suit, who had been proceeded ex-parte, now represented by his LRs. The plaintiff file, his affidavit in lieu examination in chief below Exh.18 which came to be listed for discarding order on 23/06/2025. The suit is awaiting for evidence/ further evidence of the plaintiff.

5 The application is premised on the ground, that the present applicants could not contact their Ld. advocate for illiteracy of defendant 1.1, one of the applicants being a lady, and the other defendants applicants, who were out of station, collecting documents from the revenue department to considerable time resulting into the order. If the order not set aside the defendants may be deprived of their opportunity to contest the proceedings.

6 The application is opposed on the ground, that the suit is in final phase of disposal and there is delay of 6 years 1 month and 20 days . The day to day delay has not be explained. Hence, the application is opposed.

7 As a matter of fact and record, notwithstanding the fact that the suit is proceeded no WS/ex-parte, the same has not terminated. The application is supported by affidavit. The reason appears to be just, and sufficient. If a final opportunity is not granted, it may foreclose the defence of the defendants. The disposal on merits is a rule. The inconvenience caused to the other side may be remedied. The defendants have delayed the matter and therefore, it is necessary to control the proceedings which has been sought to be reserved from the

stage of evidence of the plaintiff to issues. Costs follows event. Hence, the following **Order**

The application is allowed subject to costs of Rs.1500/- payable within 4 days from today as a condition precedent, to the plaintiff or deposit with the Court.

2 Upon failure the suit shall proceed from the same stage as if no such order was passed.

3 Considering the delay it is necessary to control the proceedings and therefore, the suit is listed thrice in a week.

Jath
Date:-09/01/2026

(Sanjay P. Bunde)
Jt C.J.J.D, Jath