

ORDER BELOW APPLICATION EXH.37 IN R.C.S.83/2020

(Sushila Dada Pisal Vs. Jagannath Ramu @ Ramchandra Zhanje & ors.)

1] The present application is filed by defendant no.3 to set aside Ex-parte order passed against her.

2] It is contention of the defendant No.3 that, plaintiff has filed suit for partition and separate possession. She is residing at Tirupati, State-Andhrapradesh with her family for business purpose. Suit summons was accepted by third party on 18/04/2023. She has no knowledge about the date. On 02/10/2025 she came her village on the occasion of *Dashera* and got knowledge about the suit. Accordingly Ex party order passed on 21/08/2024 and delay has caused to file written statement on record. Today defendant is filing her written statement. No prejudice would be caused to the plaintiff in case the application is allowed. Hence, prayed to allow the application.

3] The plaintiff has filed his say overleaf the application and resisted the same. Contention of the application is false and not agreed him. As per C.P.C. defendant no.3 has no right to file this type of application after long period. Hence, the application be rejected on cost.

4] Heard both the Advocates. Considering the contentions in the application and say overleaf the application, following points arise for my consideration and I have recorded my findings thereon along with the reasons as below:

Sr.No.	Points	Findings
1]	Whether Ex-Parte Order passed against defendant no.3 is liable to be set aside?	Affirmative
2]	What order ?	As per final order...

REASONS:

5] The suit summons and notice was served to defendant no.3 on 19.04.2023 as per report below Exh.16 and expected date given on the summons for appearance of defendants were 21.04.2023. Defendant No.3 failed to appear on 21.04.2023 and accordingly ex-parte order was passed against defendant 3. The present application is filed on 03.10.2025 and there is approximately 2 years 6 months delay to appear and file her written statement. The application is supported by affidavit and contentions in the application seems to be reasonable to consider the present application. Valuable rights of the defendant is involved in the suit property. The delay of 2 years 6 months can be compensated by imposing reasonable cost upon the defendant. Hence, considering the principal of natural justice I answer Point no.1 in the affirmative and in result of Point No.2 I pass following order.

:: ORDER ::

- 1] The application vide Exh.37 is allowed.
- 2] Ex-parte Order passed against defendant no.3 is hereby set aside on cost of Rs.2500/- out of which Rs.1500/- be given to plaintiff and remaining Rs.1000/- be deposited in Court on next date.
- 3] The matter being old one defendant No.3 shall comply the order on next date positively, failure to which the order shall automatically stand cancelled.
- 4] Cost in Cause.

Date: 10.12.2025

(R. B. Kulkarni)
Jt. Civil Judge Jr. Dn., Atpadi.