

Order below Exhibit. 87 in R.C.S. no. 43 of 2015

The present application is filed by the defendant no.3 to set aside no say order passed against him below Exh. 79.

2) The defendant no.3 contended that he is going to out of village and the requisite documents required to file say were not available to him. Hence he could not file his say within the stipulated time. Hence prayed to allow the application.

3) The plaintiff resisted the application contending that the reason mentioned in the application is not true. The defendant no.1 deliberately delayed the matter. Hence prayed to reject the application.

4) Upon perusal of record it appears that, the plaintiff filed the present suit for declaration and injunction. Plaintiff filed interim injunction application below Exh.79 on 04.05.2024. But defendant not filed their say on said interim injunction application. Therefore, court has passed no say order on 14.08.2024. Considering the nature of the application, the defendant no.3 could not be allowed to go undefended. An opportunity needs to be given to the defendant no.3 to put forth his say in the interests of justice which will ultimately help in adjudicating the matter on merit. Further if the application is allowed no prejudice would be caused to the plaintiff. Hence I pass the following order.

ORDER

- 1) The application Exh.87 is allowed.
- 2) The no say order passed against the defendant no.3 is hereby set aside subject to cost of Rs.100/-be paid to plaintiff on or before next date.

Kadegaon
Date : 02.12.2024

(D.S.Sharma)
Civil Judge, (J.D) Kadegaon
Dist.Sangli