



RCS No.82/2014
MHSN14000471-2014
Baburao Vs. Aba

ORDER BELOW EXH.113

This is application for setting aside “No-evidence” order dated 30/07/2024.

2. Heard learned advocate Shri. Suhase for plaintiff and learned advocate Shri. Suryawanshi for defendants at length. I have carefully perused the record. This is suit for declaration and perpetual injunction. The defendants had filed affidavit in lieu of examination-in-chief (Exh.108) of Gangaral alias Prabhakar Aba Tambil, who had adduced evidence with permission as per order dated 17/02/2024 below application (Exh.105). But, he had not comply that order. Therefore, he again applied to restore that order vide application (Exh.107). It is established that, he tried to prolong the matter without any reasonable cause.

3. After gone through the record, the defendants taken ground of illness without documents. Accordingly, that reason is general. However, an opportunity is the back bone of justice and if it is not granted, there is every possibility of miscarriage of justice. It is an important to mention here that the law and rules of procedure are always handmade of justice and not suppose to defeat ends of justice. So, imposing cost will meet the ends of justice. Therefore, I reached to the conclusion that, defendants have to grant opportunity for completing evidence of Gangaram with costs. Hence, I pass the following order.

ORDER

1. The application is allowed and order dated 30/07/2024 is set-aside subject to cost Rs.1000/- .
2. The defendants shall pay cost to the plaintiff and proceed with case expeditiously, failing which, order will be automatically cancelled.
3. Both parties should not claim undue adjournment.
4. Order dictated on computer and pronounced in open court.

Date- 22/10/2024.
Shirala.

(S.A. Surjuse)
Civil Judge Jr. Dn., Shirala.