



**ORDER BELOW APPLICATION (EXHIBIT 19)**  
**IN LAND ACQUISITION REFERENCE NO. 97/2021**  
**(SDO VS. CHANDRASHEKHAR & OTHS.)**  
**(PASSED ON : 10/10/2023)**

**Nature of the Application.**

1. This is an application filed by the opponent Nos. 4 to 6 (for short 'opponents') to set-aside exparte (for short 'exparte') order passed against them.

**Contents in the Application.**

2. The opponents have contended that as they are resident of Pune it , it was not possible for them to contact their advocate and to appear and to file say within time and exparte order is passed against them. Therefore, in the interest of justice exparte order is required to be set-aside.

3. On these grounds the opponents have prayed to grant the application.

**Contents in the Say of Opponent No. 1.**

4. The opponent No. 1 has filed say and has strongly objected the application.

5. The opponent No. 1 has contended that the application is not legal and tenable. The opponents are purposely delaying the hearing. No sufficient reasons is shown to grant the application.

6. On these grounds the opponent No. 1 has prayed to reject the application.

**The Argument.**

7. I have heard advocate for the opponents and advocate for the opponent No. 1, at length.

8. They argued in consonance with their contention in the application and say. I will deal with those at the time of discussing the points taken for consideration.

**Points and Findings.**

9. Upon hearing, the following points arise for my consideration and I record my findings thereon as under for the reasons to follow :-

	<b>Points</b>	<b>Findings</b>
1)	Can the exparte order passed against the opponents be set-aside, as prayed for ?	Yes.
2)	What order ?	Application granted. As per final order.

**Reasons as to Point Nos. 1 and 2.**

10. The opponents though served have failed to appear. Hence, the LAR proceeded exparte against the opponents.

11. The SDO has referred this LAR in the year 2021.

12. The opponents have contended that as they are resident of Pune it , it was not possible for them to contact their advocate and to appear and to file say within time and exparte order is passed.

13. It is well settled principle in law that too technical or pedantic approach in cases of permitting any party to file written statement even at late stage is not called for. The Court have to adopt a

justice oriented approach dictated by the upper most consideration that ordinarily a litigant ought not to be denied an opportunity of having his determined on merits unless he has, by gross negligence, deliberate inaction, or something akin to misconduct, dis-entitled itself from seeking the indulgence of the Court.

14. It is now well established by the decisions of the Hon'ble Supreme Court as well as by the Hon'ble Bombay High court reported in Shaikh Salim Haji Abdul Khayumsab V/s. Kumar & others, 2005 A.I.R. SCW 6031 and Anil Kushabrao Phutane V/s. Madhukar Kushabrao Phutane and others, 2006(1) Mh. L.J. 369, that the court can permit filing of the say beyond 90 days if a case to that effect is made out.

15. In my view, considering the nature of the LAR it is necessary in the interest of justice to set-aside exparte order passed against the opponents.

16. Further, if the opponents are allowed to appear and file say, the matter can be decided on merits and it will help to avoid multiplicity of proceeding. Therefore, also exparte order passed against the opponents is required to be set-aside.

17. According to the opponents, it is necessary to appear and to file say, in my view, considering the nature of the LAR and the dispute involved an opportunity is required to be given to the opponents to appear and to file say, which will help to arrive at proper conclusion.

18. Above all, if the application is allowed no harm or injustice will be caused to the opponent No. 1 but it will help to decide the LAR on merit. Therefore, keeping in mind the legal principles supra, I am inclined to give an opportunity to the opponents to appear and to file say.

19. After giving thoughtful consideration to the facts of the case and the averments made by the opponents in this application I am of the considered view that for just decision of this LAR it is necessary to give an opportunity to the opponents to appear and to file say in order to find out the truth in the allegations made by the opponent No. 1.

20. I am unable to persuade myself with the arguments advanced on behalf of the opponent No. 1 that the application is not tenable, for the simple reason that a litigant ought not to be denied an opportunity of having his determined on merits and my findings, supra.

21. In short, relying on the principles discussed, supra and the facts and circumstances of the case, I am inclined to grant this application and allow the opponents to appear and to file say.

22. However, due to inability of the opponents to appear and to file say within time prescribed by law the opponent No. 1 has unnecessarily suffered, therefore, this is a fit case in which the opponent No. 1 need to be compensated reasonably by awarding suitable costs. The State i.e. the Taluka Legal Services Authority, Pandharpur, is also entitled to share the cost amount as directed from time to time by the Hon'ble Supreme Court and the Honb'le High Court. The cost is quantified at Rs. 500/- (Rs. Five Hundred only) considering the nature of application, delay caused and the overall conduct of the opponents.

23. Accordingly, I answer Point No. 1 in the affirmative and Point No. 2 as application granted as per final order.

24. In the result the following order.

**ORDER.**

- |    |   |
|----|---|
| 1. | The application seeking setting aside the order of "exparte" passed against the opponents No. 4 to 6 is allowed subject to costs of Rs. 500/- (Rs. Five Hundred |
|----|---|

	only) to be deposited in the Court on or before 30/10/2023, failing which the application shall stand rejected, automatically.	
2.	The cost awarded shall be apportioned as herein below :-	
a)	The opponent No. 1.	Rs. 450/- (Rs. Four Hundred Fifty only).
b)	The Taluka Legal Services Authority, Pandharpur.	Rs. 50/- (Rs. Fifty only).

(Pronounced in the Open Court).

Date : 10/10/2023

(M. B. Lambe),  
District Judge-1,  
Pandharpur.

**C E R T I F I C A T E**

I affirm that the contents of this PDF file Judgment is same word to word as per the original Judgment.

- (a) Name of the Stenographer : Sou. M. M. Kulkarni
- (b) Court : M. B. Lambe,  
District Judge – 1 &  
Addl. Sessions Judge, Pandharpur.
- (c) Judgment signed by P.O. on : 10/10/2023
- (d) Judgment uploaded on : 10/10/2023