

ORDER BELOW Exh.27

J.D.Nos.25 & 26 have prayed for setting aside ex-parte order passed below Exh.01, dated 09.01.2022. The application is duly replied overleaf. It has been sated that J.D.'s avoided appearance, inspite of due service of notice. It is also stated that delay has not been explained.

2. Perused the application. Heard learned advocate Shri Shikare for J.D.Nos.25 & 26. Learned advocate Shri Shikare took me through measurement map produced on the record and denied the theory of encroachment. He also contended that the map at Exh.54 clearly shows encroachment by the D.H. over the land of J.D's. He has denied encroachment at the hands of J.D.Nos.25 and 26.

3. Per contra, learned advocate Shri Deshpande contended that the decree in R.C.S. No.170/2010 has not been stayed by Hon'ble High Court or Hon'ble District Court. He contended that the J.D. kept sleeping over their rights. He submits that as the decree has not been stayed, it requires execution by following due procedure of law.

4. The prayer in the present application is for setting aside of ex-parte order, for which relief the J.D. Nos.25 and 26 are required to show sufficient cause for their non appearance after service of summons of notice under Order 21 Rule 22 of the Code of Civil Procedure.

Learned advocate Shri Shikare has contended about encroachment made by the D.H. over the land of J.D's. But, the decree do not speaks so. Contentions by learned advocate Shri Shikare do not explain failure on the part of J.D.Nos.25 and 26 to appear after service of due notice. The reasons for delay find no mention in the application. The application is bereft of merit and it is accordingly rejected.

5. The order is dictated in open and digitally signed.

Date : 20.12.2022.

[A. R. Yadav.]
Jt. C.J.J.D., Pandharpur.