

**Datta V/s. Vilas.****Order Below Exh. No. 104.**

(Dated 29.10.2018)

**01** Present application filed by defendant No. 5 for setting aside the ex-parte order passed against him. According to defendant, he could not appear before the Court in time, therefore, ex-parte order passed against him. Therefore, defendant No. 5 prayed for setting aside the ex-parte order passed against him.

**02** Say of plaintiff was called for. The plaintiff has filed his say and stated that, the contents of the application are entirely false. According to plaintiff, the application under reply is without any substance and prayed for rejection of it.

**03** Heard learned Advocate for both side.

**04** Perused record and documents filed on record in the light of argument advanced. On perusal of the record, it is noticed that, as the defendant NO. 5 did not appear before the Court in time, therefore, ex-parte order was passed against him on 29.10.2018. On perusal of the record, it is noticed that, defendant No. 5 has filed present application for setting aside the ex-parte order on the same day i.e. on 29.10.2018. It appears that, defendant No. 5 was diligent in filing the application for setting aside the ex-parte order. Further, on perusal of the record, it is noticed that, the present suit is for partition and separate possession of the suit property. The valuable rights of the parties are involved in the suit. In such circumstances, for deciding the suit on merit, the

opportunity has to be given to the defendant No. 5 to defend the suit. If any such opportunity is provided to the defendant No. 5, then, in my opinion, no any prejudice would be caused to the plaintiff. Considering all these, I proceed to pass the following order :-

**::ORDER ::**

- 01** Application vide Exh. No. 104 is allowed, and ex-parte order, dated 29.10.2018, passed against defendant No. 5 below Exh. No. 1, is set aside, in the interest of justice.
- 02** Cost in cause.

Date :29-10-2018.

(S.S. Aradwad)  
Jt. Civil Judge Junior Division,  
Pandharpur.

**CERTIFICATE**

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

- a Name of the Stenographer : Shri. P.T. Jadhav
- b Court : Jt. C.J.J.D.& J.M.F.C.,  
Pandharpur.**
- c Date of Order : 29-10-2018.
- d **Order** signed by P.O. on : 29-10-2018.
- e Order uploaded on : 29-10-2018.