

Order Below Exhibit 20.

The defendant has moved an application under Order XXXIX Rule 4 of the C.P.C. for setting aside, discharging and varying the order passed on Exh. 5. He submitted that, the plaintiff was not in possession of suit property. Despite this, the temporary injunction order passed in his favour. The plaintiff has instituted false suit against him only to harass him. Hence, he prayed accordingly. The plaintiff has strongly opposed the application. He submitted that, there is no change in circumstance for discharge, variation or setting aside the order passed on Exh. 5. Hence, prayed for rejection of the application.

2. Heard to the defendant. The plaintiff has not tendered the argument on this application. I have perused the order passed on Exh. 5. The order on Exh. 5 was passed by giving an opportunity of hearing to both parties. The defendants also invoke the remedy of appeal against the order passed below Exh. 5 before appellate court. The Hon'ble District Judge-1, Barshi on 04/07/2016 dismissed the M.C.A. No. 50/2015 and thereby confirmed the order passed on Exh. 5. This application moved on 10/11/2016. This means, the defendant was having the knowledge of passing of order in above said appeal, despite this, he moved this application for setting aside the order passed on Exh. 5.

3. As per proviso clause to Order XXXIX rule 4 of the C.P.C., where an order for injunction has been passed after giving to a party

an opportunity of being heard, the order shall not be discharged, varied or set aside on the application of that party except where such discharge, variation or setting aside has been necessitated by a change in circumstances, or unless the court is satisfied that, the order has caused undue hardship to that party.

4. The defendant has not made any submission that, there is change in circumstances or by the passing of order on Exh. 5, the undue hardship is causing to him. When the order on Exh. 5 is passed by giving an opportunity to both parties then, order on Exh. 5 can be discharged, varied or set aside when the other party shows change in circumstances and undue hardship. But nothing is shown by the defendant for discharging, varying or setting aside the order passed on Exh. 5. Hence, application Exh. 20 is rejected.

Barshi.
Dt. 09-11-2022

(S.B.Vijaykar)
Jt. Civil Judge J.D., Barshi.

C E R T I F I C A T E

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

(a)	Name of the Stenographer	:	B.B.Salvade
(b)	Court	:	S.B.Vijaykar, Jt.C.J.J.D.&J.M.F.C. Barshi.
(c)	Judgment /Order signed by P.O. on	:	09/11/2022
(d)	Judgment /Order uploaded on	:	10/11/2022