

ORDER BELOW EXH. 14 IN P.W.D.VA. No. 35/2024

This is an application filed by non-applicant praying for setting aside no say order passed against him on 18.12.2024. Applicant filed her say and opposed the application on the ground that no justifiable cause has been made out.

2. Perused application and say of applicant. Heard learned advocate for both the parties.

3. By this application non-applicant has requested to set aside no say order. According to non-applicant, due to domestic problems and natural disaster he failed to file say within stipulated time. He has not intentionally caused delay to file his say. The non-applicant has filed this application along with say and requested as aforesaid and prayed to allow the application.

4. The applicant filed her say and submitted that, the reason mentioned in the application is false. The matter is pending for argument hence, at this stage, there is no any provision in the law to file present application. Only to harass the applicant, he caused delay to file his say. Hence, she prayed to reject the application and alternatively if application is allowed cost of Rs.10,000/- be imposed.

5. On perusal of record, it reveals that, the main application is filed by applicant u/s. 12,18,19,20 and 22 of the Protection of Women from Domestic Violence. Non-applicant has not filed say within stipulated period on record. Hence, no say order passed against non-applicant on 18.12.2024. Therefore, by the present application non-applicant wanted to file his say on record by setting

aside no say order. But, applicant strongly objected to allow the present application. However, it is well settled principle of law that litigation has to be decided on the merits and not technicalities. Opportunity to file say needs to be given to parties to put forth their contentions/defence being principle of natural justice. Therefore, the effective adjudication of matter on merits requires contest and participation of rivals. Further, if the application is rejected and permission to file say is not granted, non-applicant will suffer hardship. He will not get the opportunity to defend himself. On the other hand, if the application is allowed, no loss will cause to the applicant. Therefore, to decide controversy between parties completely and to avoid multiplicity of proceedings, non-applicant needs to be given opportunity to file his say.

6. In view of aforesaid discussions to my opinion the non-applicant needs to be given an opportunity to put forth his defence and the application deserves to be allowed. At the same time the delay and inconvenience caused to the other side is required to be considered and compensated by awarding the cost. Thus, keeping in mind the object of awarding the cost viz. “compensate and not to punish” the application deserves to be allowed subject to cost of Rs.1000/-. Accordingly, I pass following order;

ORDER

1. Application is allowed subject to cost of Rs.1000/- to be paid by non-applicant to the applicant.
2. On payment of costs, say of non-applicant be read and record.

Date : 17-10-2025

(V.K. Patil)
Judicial Magistrate F.C., Mangalwedha.

CERTIFICATE

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

- (a) Name of the Stenographer : S.M. Gaddam
- (b) Court : Judicial Magistrate F.C.,
Mangalwedha.
- (c) Date of Order : 17-10-2025
- (d) Order uploaded on : 17-10-2025