

Order Below Exh. 112 in RCS NO. 253/00**Dhondubai M. Kambale & Ors.****Vs.****Sharda Shivaji Reke & Ors.**

1. The present application is filed for setting aside ex party order passed against defendant no. 6 & 7. The grounds mentioned for the allowing the application are that the defendants are newly added in the suit. On 8/8/19 suit summons were accepted on their by their family member. Thereafter, on previous date as they went out of city they could not contact with counsel for giving him information. Accordingly, they prayed for setting aside ex-parte order passed against them.

2. Plaintiffs objected the application on the ground that with the present application the defendants ought to have filed the written statement and instead they have filed adjournment application to file the written statement. There is no supporting affidavit. On all these counts plaintiffs prayed for rejection of present application.

3. Perused the application and say. Perused the record. Heard. From perusal of record it reveals that on 08/08/19 the suit summons duly served upon present defendant no. 6 and 7. Thereafter, also on next date i.e. on 17-8-2019 they not appeared therefore, ex-parte order came to be passed against them. This being so, in my view, considering the length of delay it would be fair and justifiable to set aside ex-parte order passed against them for the reason that if order is not set aside their material right of being heard would get prejudiced. As far as objection of not filing affidavit and written statement alongwith present application is concerned, it is to be noted that the procedures are meant for administration of justice and not to defeat the same on technical grounds. Accordingly, I think it fit to allow the application. Hence, the following order:-

Order

The ex party order against the defendant no. 6 and 7 is set aside.

Date – 13/09/2019

Place – Karad

(A. P. Kulkarni)

3rd Jt. CJSD, Karad