

**Spl.C.S. No.45/2021
Raghunath Vs. Rahul
and Ors.**

COMMON ORDER BELOW EXH. 33 and 34

Read an application and the reply filed by the plaintiff. Perused the record. Heard the learned counsel for the plaintiff Adv. Shri. K. S. Kalekar. The defendant No.3 and his learned counsel are absent when called.

2. The defendant No.3 filed this instant application and submitted that this suit is proceeded ex-parte against him. Now, the defendant No.3 want to appear and to file the written statement. According to the defendant No.3, the suit summons received to defendant No.3 through the hands of son of defendant No.4 Pradhan Shinde. The fixed date of the suit was not informed to the defendant No.3 and therefore the defendant No.3 could not appear within the time and therefore, the suit is proceeded ex-parte against him. The defendant No.3 did not appear and file the written statement and therefore, the defendant No.3 prayed to set aside ex-parte order dated 11.08.2022 and to grant permission to file the written statement.

3. The plaintiff has filed the reply to this application. The plaintiff has not taken objection. The plaintiff prayed to impose costs upon the defendant No.3, if the application is allowed. The defendant No.3 also filed the written statement as well as reply to the temporary injunction application along with this instant application. It

is also necessary to grant an opportunity to defendant No.3 to contest this suit. The reason for non appearance of defendant No.3 mentioned in the instant application is not appears to be justified. However, it is necessary to grant permission to defendant No.3 to file written statement. The defendant No.3 is liable to pay costs to the plaintiff. Accordingly, I proceed to pass the following order.

ORDER

1. The application is allowed
2. The ex-parte order 11.08.2022 be set aside and the defendant No.3 is permitted to file the written statement subject to costs of Rs. 1000/- payable by defendant No.3 to the plaintiff till next date, otherwise this application shall automatically stands rejected.
3. Both the parties are directed to take note of it.

Vaduj
Date: 10.10.2022

(D.D. Fulzele)
Civil Judge Sr.Dn., Vaduj