

MHTH170006912014



R. C. S. No. 74/2014
Gangram Adhikari & Ors.
Vs.
Abdul Sidhhiki & Ors.

Order below Exh. 54

This is an application filed by the defendant No. 1 to set aside no evidence order passed against him on 07/10/2024. It is submitted that the defendant has no knowledge about the summons of the suit. The summons not served to him. He also has no knowledge about the paper notice. The suit was proceeded exparty against him on 27/7/2019 and evidence closed order passed on 7/10/2024. the defendant was appeared in court for R. C. S. No. 40/2014 that time he aware about the present suit. He has not served with summons therefore there is delay in filing written statement. The delay is not cause deliberately. It is necessary to hear his side. Hence prayed allow the application.

02. The defendant has filed say at Exh. 70 and oppose the application. It is submitted that application is false. The defendant has prepared false and bigus sale deed. The address on sale deed is same as in plaint. The defennat no. 1 is of criminal nature. He has deliberately avoided service of notice. He has well knowledge about the present suit. There is delay of 6 years 2 months and 9 days. The defendant has executed false sale deed therefore opportunity can not be given to him. Hence prayed for reject the application.

03. I have heard the ld. Counsel for the both the side. I have also gone through the record. The suit is more than 10 years old. The order has been passed against defendant No. 1 on 07/10/2024. This is suit for cancellation of sale deed, declaration and injunction. True that there is huge delay by the

defendant No. 1. however considering the nature of the suit it is necessary to hear other side to decide the matter on merit. The reason given by the defendant is considered however the hardship to plaintiff can not be ignored. In such facts and circumstances, it is necessary in the interest of justice to give a fair opportunity to the defendant to contest the matter. It would be just and proper to allow this application subject to cost. Hence, the order.

ORDER

1. Application Exh. 54 is allowed subject to cost of Rs.8000/- to be paid to the plaintiff .

2. The order dated 07/10/2024 against defendant No. 1 is set aside. On payment of cost.

Date : 13.04.2026.
Place: Palghar

(Sujata R. Bandal)
Jt. Civil Judge Jr. Division,
Palghar