

COMMON ORDER BELOW EXH.18 AND 21 IN RCS No.129/2013

Heard both sides. Perused the record. Defendant no.1 and 2 filed the application to set aside the ex-parte order dated 15/09/2014 and for condonation of delay caused to file written statement.

2] Application strongly opposed that the defendants have not sufficient reason for delay. Suit is for cancellation of sale deed executed in favour of defendant nos.1 and 2 with perpetual injunction in respect of the immovable property. Record reveals that suit summons would be served but they did not appear hence suit proceeded ex-parte against defendant as per order below Exh.1 dated 15/09/2014. These applications have been filed on 06/07/2015. Admittedly, suit summon served on 03/07/2014. There is delay of 1 year. The reason has been stated that defendant no.1 was residing her village being marriage and defendant no.2 mistakenly and out of misunderstanding remained absent. The reason does not appears to be proper. However, opportunity being her required to be given on principle of natural justice. It would be better option to decide the matter on merit rather than rest upon technicalities. Admittedly, there is 1 year delay and can be compensated by imposing costs on the defendants. Therefore, application deserves to be allowed. Hence, I pass following order.

ORDER

- 1] Both applications allowed.
- 2] The ex-parte order dated 15/09/2014 passed below Exh.1 hereby set aside and delay caused for filing written statement condoned of costs of Rs.2,000/-.
- 3] The defendant do pay the costs to the plaintiff on next date without fail, on failure this order will have no force.

Shahapur.
Date : 04/11/2015.

(Vijay P. Kedar)
Jt. Civil Judge, J.D.Shahapur.