

MHWS100008322023

**ORDER BELOW EXH. 10 IN R.C.S. NO.30/2023**

Ashokappa Digambarappa Gondal Vs. Vilasappa Digambarappa Gondal

Passed on 25^h August-2023

1. This is an application filed by plaintiff for strike of the defence of defendant.
2. It is the contention of plaintiff that, on 06.03.2023 this court has passed an order below Exh.05 and restrain the defendant No.1 from making any sort of construction. Thereafter, also the defendant No.1 has making construction over the suit property. The defendants have breached the order of the court. Plaintiff has filed complaint to Police Station, Jaulka and Superintendent of Police, Washim. They have not taken any cognizance. Therefore, this application is filed.
3. Plaintiff has filed the copy of the complaints given to the Police Station, Jaulka and Superintendent of Police, Washim. Plaintiff has also filed the copy of notice given by the Gram-Panchayat to the defendant No.1 for restraining him from further construction. But, the defendant No.1 has refused to accept the notice.
4. This application is filed on 05.06.2023. I have mused over the record. It appears that, till today, defendants have not appeared in this matter. Even defendants have not received the summons of this case.
5. The Ld. Advocate for plaintiff has not mentioned under which provision this application has been filed. When the defendants are not appeared and without their say or without being heard to them, the court cannot strike of the defence of the defendants. If the strike of defence order is passed then it will prejudice the defendants when they appeared in the

present matter. The application is devoid of merits. There is no provision to strike of defence of the defendant on breach of the injunction order. Hence, following order is passed :-

ORDER

1. Application is rejected.
2. No order as to costs.
(Dictated and pronounced in open Court).

Place : Malegaon
Date : 25.08.2023.

[Pravin U. Kulkarni]
Jt. Civil Judge (J.D.) Malegaon
Dist. Washim.

CERTIFICATE

I affirm that the contents of this P.D.F file Order is same word to word, as per the original Order.

Name of Stenographer : **Shivam B. Patange (L.G.)**

Name of Court : PU.Kulkarni
Jt. C.J.J.D. and J.M.F.C., Malegaon.

Date of the Order : 25.08.2023

Order Signed by : 25.08.2023

Presiding Officer on

Order Uploaded on : 25.08.2023