

Special Civil Suit No.20/2014
Devkanya-Vs-Dnyaneshwar

ORDER BELOW EXH.59

(Passed on 6th day of January, 2023)

1 Defendant No.2 moved this application for setting aside exparte order and grant of permission to file written statement. She contended that she is old aged lady. In the year 2014 she was ill, and therefore, she could not attend the Court and failed to participate in this proceeding. Therefore Court passed order to proceed exparte against her. Now she is ready to file her written statement and alongwith this application w.s. is attached. If permission granted to participate in proceeding no prejudice would be caused to the plaintiff, hence application be allowed.

2 Learned counsel for plaintiff submitted his say and opposed application. He submitted that defendant has not filed any documentary proof regarding her illness, therefore application be rejected and if application is allowed, saddle heavy costs upon defendant.

3 After perusal of record, it appears that Court has passed order to proceed exparte against defendant No.2 on 21/02/2015. The case is fixed for evidence. On 01/12/2016 further examination-in-chief of plaintiff is recorded at Exh.12 and now case is part heard. Plaintiff has filed suit for declaration and possession. Considering the nature of suit and the stage of the case, it appears that if opportunity not given to the defendant,

she will suffer irreparable loss. On the other hand, if application allowed and opportunity granted, no prejudice would be caused to the plaintiff. However, too much delay has been caused from the side of this defendant therefore, it will be justified to compensate it to the plaintiff by defendant.

Accordingly, application stands allowed.

Order dated 21/02/2015 is hereby set aside.

Permission granted to file written statement on record subject to costs of Rs.1,000/- which is payable to plaintiff.

After depositing costs amount, w.s. will be marked as Exhibit Number.

Dt/-06/01/2023

(Smt. V. R. Jambhule)
Joint Civil Judge (Sr. Dn.),
Darwha.