

ORDER BELOW EXHIBIT 1

This is an application filed by the applicant/original plaintiff under Order IX Rule 4 of the Code of Civil Procedure for restoration of Regular Civil Suit No. 13/2023, which came to be dismissed in default on 04/10/2025. Non-applicants appeared in the matter; however, they failed to file their reply. Hence, as per order below Exhibit-1 dated 16/01/2026, “no reply” order was passed against them.

2) Heard learned Advocate Shri S.R. Sawant for the applicant. The non-applicants remained absent at the time of arguments.

3) It is the contention of the applicant that on 04/10/2025, due to Durga Visarjan, she could not get transportation from village Palsi to attend the Court. It is further submitted that the father-in-law of learned Advocate Shri Sawant, namely Raghunath Motiram Shinde, expired, due to which the learned advocate was also unable to remain present before the Court. It is submitted that the absence of both the applicant and her advocate was neither intentional nor deliberate, but due to unavoidable circumstances.

4) In support of the application, the applicant has examined herself and reiterated the contents thereof. She has produced on record the certified copy of the plaint in R.C.S. No. 13/2023, the order below Exhibit 1 dated 04/10/2025 showing dismissal in default, the verified copy of her Aadhaar Card, and a photocopy of the death certificate of Raghunath Motiram Shinde.

5) The non-applicants failed to cross-examine the applicant and also did not adduce any evidence. Thus, the evidence of the applicant has gone unchallenged.

6) I have carefully perused the record and considered the submissions advanced. The suit filed by the applicant was for declaration and perpetual injunction. It was dismissed in default due to absence of the applicant on the relevant date. The reasons assigned by the applicant for her absence, namely non-availability of transportation due to Durga Visarjan and death in the family of her advocate, appear to be genuine and supported by documentary evidence. The applicant has satisfactorily explained her absence. There is nothing on record to indicate that the absence was intentional or with a view to delay the proceedings.

7) It is well settled that procedural laws are handmaid of justice and matters should ordinarily be decided on merits rather than on technicalities. In the present case, sufficient cause has been shown within the meaning of Order IX Rule 4 of the Code of Civil Procedure. Hence, the application deserves to be allowed. Therefore, I pass following order:-

ORDER

1. The application filed by the applicant under Order IX Rule 4 of the Code of Civil Procedure is hereby allowed.
2. The Regular Civil Suit No. 13/2023 is hereby restored to its original file and number.
3. No order as to costs.

Arni
Date:- 02/05/2026

Sd/-
(Smt. Roshni Deepak Chaube)
Jt.Civil Judge Junior Division,
Arni