

MHYA240002112025



ORDER BELOW EXH.- 54

1) This is an application filed by the Power of Attorney of proposed L.R's of defendant no.7 to set-aside 'exparte' order against defendant no.7 dated 08/08/2025.

2) According to applicant, defendant no.7 was in coma and was hospitalized on 29/07/2025 and defendant no.6 had not taken steps for defendant no.7 because he was under impression that defendant no.7 will recover and will be discharged from hospital and independently pursue the litigation. Defendant no.7 has died on 12/10/2025 and his legal representatives have executed Power of Attorney in favour of defendant no.6. Hence, defendants have good case on merit and have firm belief that they will succeed in the instant matter. The defendants will suffer grave and irreparable loss if not given opportunity to contest the present matter. No prejudice will be caused to the plaintiff if the present application is decided. Hence, proposed L.R's of defendant no.7 prayed that to set-aside 'exparte' order against defendant no.7.

3) Plaintiffs and defendant no.2 have filed their say overleaf of the application and submitted that suitable order may kindly be passed. Defendant no.3 has failed to file say to this application therefore said application proceed

without say of defendant no.3 and suit proceeded exparte against defendant nos.1, 4, 5 and applicant is defendant no.6 too.

4) Heard Learned Counsels of the parties perused entire record.

5) This is the suit for declaration and perpetual and mandatory injunction and compensation.

6) There was exparte against defendant no.7 on 08/08/2025 and this application has been filed on behalf of his L.R's through Power of Attorney.

7) Considering, the interest in suit immovable property, the L.R's have right to defend and litigate on behalf of deceased defendant no.7 and they have also filed another application for impleadment under Order I Rule 10.

8) Hence, as per the adherence of principle of natural justice, application needs to be allowed as adjudication on merit is desires. Hence, I proceed to pass following order;

ORDER

- 1) Application Exh.- 54 is hereby allowed.
- 2) The order of exparte hearing against defendant no.7 dated 08/08/2025 is hereby set-aside
- 3) Cost in cause.

Date : 17/02/2026.

(P. S. Jondhale)
Civil Judge (Sr. Dn.),
Wani.