

ORDER BELOW EXH. 32 IN Reg.C.S. No. 70/2023

1. This application is filed by plaintiff for setting aside No Say order passed against him for filing Say on the application filed under Order 7 Rule 11 of the CPC by the defendant. Plaintiff contended that, he could not file Say, and hence No Say order passed against him on 02-08-2023. Hence, he prayed to allow the application and to set aside No Say order passed against him.

2. Defendants resisted this application and taken objection to grant application. They contended that, the plaintiff has filed this application after eight months. Hence, prayed to reject the application.

3. Considering rival contentions of both the parties following points arise for my determination and I record my findings thereon for the reasons mentioned below.

No.	POINTS	FINDINGS
1	Whether application is liable to be allowed ?	... in the positive.
2	What Order ?	... Application is allowed.

:: REASONS ::

POINT NO.1. :-

4. Heard both the learned Advocate. Perused the record. This is a suit filed by the plaintiff for partition and perpetual injunction. Plaintiff contended that, he could not file Say, on the application filed under Order 7 Rule 11 of the CPC by the defendant. and hence No Say order passed against him on 02-08-2023. Hence, he prayed to allow the application and to set aside No Say order passed against him. To decide real controversy between the parties and in the interest of justice, it is necessary to give an

opportunity to the plaintiff to file his Say on application filed by the defendants. However, delay caused by the plaintiff cannot be overlooked. Hence, No say order needs to be set aside subject to payment of costs to the defendants. Hence, I answer point no.1 in the positive and in answer to point no.2, I pass the following order.

:: ORDER ::

1. Application is allowed subject to cost of Rs.1,000/- (Rupees One Thousand only) to be paid to the defendants on or before next date.
2. No Say order dated 02-08-2023 passed against plaintiff is hereby set aside.
3. Say of plaintiff be taken on record.

Panvel,
Date : 28-11-2023.

(Nayomi P. Pawar)
Civil Judge, Senior Division Panvel.