

ORDER BELOW EXH 18 IN CIVIL M.A.NO. 01/2018
(CNR NO. MH007000890-2017)
I.A.No.02/2019

01] This is an application filed by non-applicant no.2 for setting aside of without say order dated 13.02.2019 passed against her on Exh. 1 and for grant of permission to file her say on record. It is submitted therein that she has right and interest in the suit property. As she is uneducated and illiterate lady. She did not know about the filing of reply to the instant case. Therefore, there is delay in filing her say on record which needs to be condoned in the interest of justice and she need to be permitted to file her say on record.

02] In reply scribed over the instant application the applicant has strongly opposed it and submitted therein that the contents of the application are not true and correct. That after her appearance in the instant case she die not filed her reply inspite of giving sufficient opportunity. The applicant in the instant case is old aged. That the instant application is filed with an intention to delay the disposal of case. That the reasons mentioned in the application are not proper and justified. Therefore, the application is liable to be rejected.

03] Perused the application and the reply scribed over it. Heard learned advocates for both the sides.

04] The instant case is for setting aside of order dated 26.10.2017 passed on Exh.1 in R.C.S.no. 312/2012 and for taking the said suit on the file of the Court. It appears from record that there is no any order of proceeding the case further without say of non-applicant no.2 passed on

Exh.1. It further goes to show that after her appearance in the present case on 12.04.2018 she failed to file her say to the instant case. It is therefore, clear that she failed to file her reply on record within statutory period after service of notice over her or after her appearance in the present case and there is a delay on her part to file her reply to the present case. As per principles of natural justice no party to the case should remain unheard and that all the parties should be heard before deciding the said case on merits. In the present case, to decide the case on merits it is necessary to give an opportunity to the non-applicant no.2 to file her say on record. Delay in filing say can be compensated by imposing cost over the non-applicant no.2. No prejudice will be caused to the applicant if the instant application is allowed. On the contrary if this application is allowed and non-applicant no.2 is permitted to file her say on record the instant case will be decided on merits. As such, to give an opportunity of hearing to non-applicant no.2 to decide the case on merits instant application needs to be allowed as per final order. As such, final order is passed as follows:-

ORDER

1. The instant application at Exh. No. 18 is allowed in the interest of justice subject to cost of Rs. 200/- (Two Hundred only) to be paid to the applicant.
2. The non-applicant no.2 is permitted to file her say on record after depositing the cost amount.
3. The application is disposed of accordingly.

Date- 25.11.2019.

(P. P. Deshmukh)
Jt. Civil Judge, Junior Division
Pandharpur.

CERTIFICATE

I affirm that, the contents of this PDF file order are same word to word, as per the original order.

Name of Stenographer : A.K. Vibhute

*Court : Jt.Civil Judge Junior Division
Pandharpur*

Date : 25.11.2019.

*Order signed by the
Presiding Officer on : 25.11.2019.*

Order uploaded on : 26.11.2019.