

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2957 OF 2026

Satishkumar Prabhakar Parulkar

...Petitioner

V/s.

Jalaja Ranganathan and Ors.

...Respondents

Ms. Rima Desai *i/b Mr. Shanay Bafna for Petitioner.***Mr. Makarand Bahore** *for Respondent No. 1.*

CORAM: SANDEEP V. MARNE, J.**DATED: 6 APRIL 2026.****P.C.:**

1) The Petition challenges order dated 23 January 2026 passed by the learned Judge, Small Causes Court on Application at Exh-29 filed in R.A.E and R Suit No. 35 of 2023. By the impugned order the Trial court has allowed the Application at Exh-29 subject to payment of cost of Rs. 10,000/- and has accordingly set aside ex-parte order dated 7 July 2023 passed against Defendant No. 2.

2) I have heard Ms. Desai, the learned counsel appearing for the Petitioner and Mr. Bahore, the learned counsel appearing for the Respondent.

3) Plaintiff's suit is instituted in the year 2023. All the four defendants are sisters and claim residence in the suit premises, though the tenancy was in the name of their father. After the original tenant passed away, the four sisters claim tenancy rights in respect of the suit premises. There is no dispute to the position that Defendant No. 1 was duly served with the suit summons in the year 2023 itself. It is the case of Defendant No. 2 that she also resides in the suit premises. If that is the position, how suit summons could not be served on Defendant No. 2, when the same was served on Defendant No. 1, is incomprehensible. Be that as it may. It is the case of Defendant No. 2 that she was away from suit premises at the time when an attempt was made to serve her by the Bailiff. On account of non appearance on the part of Defendant No. 2, Plaintiff was required to undertake the exercise of paper publication for service of suit summons on Defendant No. 2.

4) Defendant No. 2 has come out with a novel story that in May 2025, she received a letter from the Advocate of Defendant No. 1 intimating to her about filing of the suit. This story appears unbelievable in view of the fact that Defendant No. 2 also claims residence with Defendant No. 1 in the suit premises. It is not a natural conduct that Defendant No. 1 would not inform her own sister about filing of the suit and would instruct her advocate to inform Defendant No. 2 about filing of suit through letter. The Trial court has nonetheless allowed the Application at Exh-29 by imposing cost of only Rs. 10,000/-.

5) It appears that Defendant Nos. 3 and 4 have also not appeared in the suit. Plaintiff's apprehension is that by following similar

course of action, Defendant nos. 2 and 3 are also likely to apply for setting aside ex-parte order qua them so as to delay the suit indefinitely.

6) In view of the above position, though I am not inclined to interfere in the decision of grant for setting aside ex-parte order, at the same time stringent conditions need to be imposed against Defendant No. 2 for exhibiting negligent conduct in not appearing in the suit despite acquiring knowledge through Defendant No. 1 about filing of the suit. Ends of justice would meet by enhancing the amount of costs.

7) Accordingly, I proceed to pass the following order:-

- (i) Order dated 23 January 2026 is modified by enhancing the amount of costs from Rs. 10,000/- to Rs. 25,000/-.
- (ii) The difference in amount of cost shall be deposited by Defendant No. 2 in the Court within a period of one week in the Trial Court. Subject to deposit of the entire amount of enhanced costs Defendant No. 2 shall be entitled to file the written statement.
- (iii) The Trial Court shall accord due priority in deciding the suit considering the advanced age of the Plaintiff.

8) With the above directions, the Writ Petition is partly allowed and **disposed of**.

[SANDEEP V. MARNE, J.]