

FDP No.18/2020

25.01.2025.

ORDER

The counsel for the respondent No.17 has filed this application under Order IX Rule 7 R/w Section 151 of CPC along with vakalathnama on behalf of respondent No.17 and prays to set aside the exparte order and may be allowed to come on on record.

2. In the affidavit, reason stated that he is the General Power of the respondent No.17. The respondent No.17 instructed one advocate to represent the above case on her behalf but, recently he came to know that the advocate has not filed vakalath of her and reported as placed exparte. It is further stated that non appearance on the above case is neither deliberate nor intentional but for the bonafide reason. Great prejudice will be caused to the respondent No.17 if she is not permitted to represent the above proceedings. The respondent No.17 has also got share in the schedule property. Hence, prays to allow this application.

3. In the objection, the petitioner has stated that the reason stated in the affidavit are not satisfied to set aside the exparte order against the respondent No.17. The petitioner has denied the averments made in the affidavit and sought to dismiss the application.

4. Heard, perused the record.

5. The petitioner has filed this final decree proceedings to effect partition of the decree schedule properties with the assistance of Taluk Surveyor in accordance with Judgment and Decree passed in O. S. No.188/2003 and allot properties in favour of the petitioner. After service of notice, the respondent No.17 was not appeared before this court. Hence, she placed exparte. Now, the applicant has filed this application and prays to permit the respondent No.17 to proceed with case.

6. This court has carefully perused the record. As per order dated 14.12.2020 notice to respondent No.17 was served and placed exparte. As stated above this is final decree

proceedings to effect partition of the decree schedule properties in accordance with Judgment and Decree passed in O. S. No.188/2003. All parties are necessary to effect the partition. The aaluable civil rights of the parties are adjudicated in the present final decree proceedings. Therefore, presence of the respondent No.17 is very much necessary to proper adjudication of the present final decree proceedings. Hence, it is necessary to allow the present application and permit the respondent No.17 to proceed the case further in the interest of justice and to avoid further multiplicity of proceedings. Hence, proceed to pass the following;

ORDER

The application filed by the respondent No.17 under Order IX Rule 7 of CPC is hereby allowed.

Permit the respondent No.17 to come on record and proceed the case further.

For hearing on pending applications.

Call on 17.02.2025.

Sd/-

**II Addl. Civil Judge and JMFC
Mangaluru.**