

ORDER BELOW EXH.39

(Passed on 23-01-2026)

This application is filed by defendant no.2 for getting permission to adduce his evidence by setting aside the order dated 19.06.2025 passed below Exh.1 for closing his evidence.

2] Perused the application, replies, and the record. Heard learned Advocates.

3] The defendant no.2 is contending that on fixed date of this suit he supposed to lead his evidence but due to unavoidable circumstances he could not lead his evidence. Consequently his evidence is closed by passing an order dated 19.06.2025 below Exh.1. So, considering the said reason the order dated 19.06.2025 passed below Exh.1 be set aside and he kindly be allowed to adduce his evidence.

4] The plaintiff opposed the application on the ground that the matter stands at the stage of final arguments and the present move is only to protract the proceedings. The plaintiff further prayed for rejection of this application.

5] The record discloses that on 19.06.2025, this suit was fixed for the evidence of defendants, but on that day neither the defendants nor their learned advocate appeared in court. Even on that date of this suit no application for adjournment was filed on record. In such circumstances the evidence of defendants is closed by passing an order below Exh.1.

6] Perusing record, it is very clear that at the stage of final arguments the defendant no.2 is seeking permission to adduce his

evidence. It is very clear that the defendant had ample opportunity to adduce his evidence. But, it is also settle legal principle that the Court must strive for a conclusive adjudication on merits and avoid multiplicity of proceedings. In such circumstances, it would be just to grant a narrowly tailored opportunity to defendant for adducing his evidence by giving strict direction to complete his evidence expeditiously to avoid the delay or prejudice.

7] In the result, the application is allowed, subject to stringent terms as under.

ORDER

1. Defendant no. 2 is hereby granted one effective opportunity to adduce his evidence, subject to the following conditions:
 - (i) Affidavits of examination-in-chief of all witnesses of defendant no. 2 under Order XVIII Rule 4 CPC shall be filed on or before next date of this suit, with advance copies to the plaintiff.
 - (ii) All documents on which defendant no. 2 seeks to rely shall be filed along with the affidavits, with proper list and copies, and shall be strictly confined to his existing pleading and the issues already framed. No new pleas shall be introduced through evidence.
 - (iii) Cross-examination of the witnesses of defendant no. 2 shall proceed expeditiously. No adjournment shall be granted save for exceptional and recorded reasons.

(iv) Recall of any witness already examined shall not be permitted, save on a speaking application demonstrating necessity under Order XVIII Rule 17 of CPC and only for clarification, not to fill lacunae.

2. After the completion of the evidence of defendants, the matter shall forthwith proceed to final arguments without further delay. Any default by defendant no.2 in complying with timelines or conditions shall entail closure of his evidence and the suit shall proceed on the existing record.
3. Costs in main cause.

Date : 23/01/2026.

(Mahesh S. Kale)
Jt. Civil Judge (Sr.Dn.),
Akot.

CERTIFICATE

I affirm that the contents of this P.D.F file Judgment are same word for word as per original Judgment.

Name of Steno : S. M. Rothe
Court Name : Jt. C.J. [Sr. Dn.] Akot
Date : 23/01/2026
Judgment Signed by P.O On : 23/01/2026
Judgment Uploaded on : 23/01/2026