

MHAU070023742025



**ORDER BELOW EXH. 53 IN Spl. C.S.No.256/2025**  
**Najirkha Vs. Dadasaheb**

Present application is filed by the plaintiff to recall him (P.W.1). It has contended that, the evidence of the plaintiff, is recorded but the Issar pawati/ agreement to sale is remain to exhibit. Therefore, re-examination of witness is necessary. Hence, prayed to allow this application.

**02.** Ld. Advocate for defendant raised objection. It has submitted that, already cross-examination is completed. There is nothing come on record during cross-examination as a ambiguity. No need of any further explanation. Hence, application for re-examination can not be allowed. Hence, prayed to reject the application.

**03.** Perused application and say. Admittedly, plaintiff has examined himself by filling chief evidence affidavit at Exh-42. The present suit is filed for specific performance of contract. It has contended by the plaintiff, he entered into the agreement to sale with Dadasaheb Eknath Gaike by agreement dtd.25/10/2007.

**04.** As per provision under **Order-XVIII, Rule-4 of Civil Procedure Code** admissibility of document is needs to be decided by considering chief evidence affidavit. The plaintiff has in para 2<sup>nd</sup> of the affidavit, described in detail as to how agreement to sale is executed. He along with defendant and witnesses signed the document. The question as to whether plaintiff is entitled to relief of specific

performance or not it is the part of the trial and evidence of the both parties. As per the provision under section 54 of the Transfer of property Act, the agreement to sale need not be registered. The original Issar pawati is filed. In cross-examination of plaintiff, nothing come on record which creates ambiguity about his evidence. There is no need of further explanation. Therefore, there is no substantial ground to allow re-examination of the witness. Hence, order-

### **ORDER**

1. Prayer of re-examination is rejected.
2. As per the provision Order-XVIII, Rule-4 of the CPC, Issar Pawati filed by the plaintiff along with list Exh-37 is exhibited. Concerned clerk to take note.
3. Both parties is at liberty to argue on the evidentiary value of document at the time of final argument.

(Nilesh R. Indalkar)  
Civil Judge Sr. Division  
Gangapur

Date:- 11.02.2026