

Order Below Exh. 101
in R. C. S. No. 91/2008
(Kadappa V/s. Amru ta and others)

The plaintiff has filed this application to set aside evidence close order passed against him on 13.12.2024.

2. It is the contention of the plaintiff that, the Hon'ble Court has passed the order on Exh.1 on 13/12/2024 and close the evidence of plaintiff due to non deposit the witness Bhatta of witness. The plaintiff thought that he has deposited the witness bhatta but due to over load of the work plaintiff not deposited the same. The plaintiff is filed separate application for deposit the witness bhatta. Considering the personal difficulty evidence close order passed against him be set aside.

3. On the other hand, the defendant has filed their say at Exh. 102 and resisted the application. It is the contention of the defendant that, in the year 2008 Hon'ble C.J.J.D. Court dismissed the suit on 23/10/2013. After that Reg. Civil Appeal was filed and which was partly allowed on 10/4/2018. From 2018 suit is pending for evidence. Thereafter, Hon'ble court passed evidence close order. Plaintiff is prolonging the suit. Considering the ground the application be rejected with heavy costs.

4. I have heard ld. advocates for both sides.

5. Perused the application, reply and roznama. This is suit for recovery of possession and removal of encroachment. The said matter was remanded back for fresh hearing. Thereafter, ample opportunity was given to the plaintiff to lead his evidence. However, he fails to do so. Hence, evidence close order

was passed on 13.12.2024. Admittedly, the plaintiff vide present application prayed for setting aside the evidence close order stating that he intends to deposit witness bhatta.

6. According to me, for the just decision of the case, both parties are required to be heard. It is settled principle of natural justice that parties must be heard to decide case on merit by granting equal opportunity of hearing and leading evidence. The rights of the plaintiff must not be curtailed. It would be proper to accept evidence of plaintiff for the fair disposal of the suit and to avoid multiplicity of the litigation. Hence, in order to decide present matter on merit an opportunity needs to be granted to the plaintiff. The matter is more than 15 years old. Hence, plaintiff and defendants are directed to proceed with the matter as early as possible without unnecessarily delay. In view of above discussion, I pass to following order :

: ORDER :

1. The application is allowed.
2. “No Evidence” order passed against the plaintiff is set aside subject to costs of Rs.200/-.

Date :26.06.2025

(Chandrakant R. Patil)
Jt. Civil Judge, Jr. Dn.
Phulambri.

CERTIFICATE

I affirm that the contents of this [P.D.F.](#) file order are same, word to word, as per the original order.

Name of the Stenographer	S. D. Chavan
Court	CJJD Court, No. 2, Phulambri.
Date	26/06/2025.
Order signed by the presiding officer on	26/06/2025.
Order uploaded on	26/06/2025.

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