



R.C.S./1400065/2010

**Laldas Pannalal Shah Vs. Municipal Corporation Aurangabad.**

**ORDER BELOW EXH.248**

1. By this application the plaintiffs sought permission to continue with the evidence affidavit at Exh.228 of legal representative of deceased plaintiff No.7 filed before substituting him. Read the application and reply of the defendant corporation at Exh.249. Heard Ld. Advocates for the rival parties.
2. Ld. Advocate for the plaintiffs submitted that original plaintiff No.7 Moongiben died and before substituting her legal representative Purushottam as party defendant, his evidence affidavit at Exh.228 was filed by the plaintiffs. The plaintiffs came to know this irregularity later on. Therefore, in order to cure this irregularity present application is made by plaintiffs.
3. Ld. Advocate for defendant corporation argued that there is gross negligence on the part of plaintiffs in conduct of the suit. There is no provision under the law to allow this application.
4. It is to be noted that the evidence of witness on affidavit is regulated by Order 18 Rule 4 of the Code of Civil Procedure, 1908. My Ld. Predecessor has already read and recorded evidence affidavit of Purushottam at Exh.228. Thus, the plaintiffs cannot withdraw this affidavit. His status is that of witness within the meaning of this provision and whether he was a party to the suit or not at the relevant time is not material to proceed with this evidence. Moreover, it will cause no prejudice to the adversary. Therefore, the application needs to be allowed. Hence, I pass the following order :

**ORDER**

Application stands allowed as prayed.

Date :-14.02.2025.

**(Shri. N.H. Tikhe)**  
Civil Judge Senior Division  
(Corporation Court), Aurangabad.

## 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.V. Shinde
Court	: C.J.S.D.(Corporation Court), Aurangabad
Date	: 14.02.2025
Order signed by the presiding officer on	: 14.02.2025.
Order uploaded on	: 14.02.2025.