

MHAU130000132009



ORDER BELOW EXH.128.IN R.C.S.No.147/2010
(Kusum V/s M.C.A.)

1. Plaintiff has filed this application seeking permission to lead evidence on issue No.3 to 7 and 9 to 11 framed at Exh.52.
2. Plaintiff has submitted that she had submitted the pursis reserving her right to lead evidence on issue No.3 to 7 and 9 to 11, the burden of proof of which was on defendant No.1. Defendant No.1 has filed pursis stating that it does want to lead the evidence. This court has not considered pursis filed by defendant No.1 saying that side of defendant No.1 for evidence is already closed. Right of defendant to lead evidence is forfeited does not mean that plaintiff can not lead evidence on the issues on which she has reserved her right to lead evidence. Hence plaintiff has prayed that she be permitted to lead evidence on issue No. 3 to 7 and 9 to 11.
3. Defendant No.1 has filed the say to this application at Exh.131. Defendant No.1 has submitted that unless the order of evidence close is set aside, this application is not tenable. Hence this application is liable to be rejected.
4. I heard Ld. Counsel for the parties.
5. I perused this application and say submitted. I perused record of this

case. In the present case till date both the parties have not adduced their evidence. Plaintiff has filed evidence closed pursis at Exh.121 reserving right to lead rebuttal evidence on issue No. 3 to 7 and 9 to 11.

6. In the present case, side of defendant No.1 to adduce evidence was closed by this court. Hence evidence of defendant No.1 is not on record. However I consider that every matter is to be decided on merit. Therefore I consider that it is necessary to permit plaintiff to adduce evidence on issue No. 3 to 7 and 9 to 11. Hence I pass this order.

ORDER

1. This application is hereby allowed.
2. Plaintiff is permitted to adduce his evidence on issue No.3 to 7 and 9 to 11 subject to the condition that plaintiff shall adduce his evidence on next date positively.

Date :- 17.08.2022
Place :- Aurangabad.

(Smt. S.N. Morwale),
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	: Varsha Ajit Andurkar
Court	: C.J.S.D. (Corporation Court), Aurangabad.
Date	: 17.08.2022
Order signed by the presiding officer on	: 17.08.2022
Order uploaded on	: 17.08.2022