

MHBI160013262014



**R.C.S.No. 521/2014**

Sheshrao Vs. Tukaram

**ORDER BELOW EXH. NO.30**

Perused application and say. Heard both the sides. Applicants/ plaintiffs prayed for setting aside the evidence close order passed dated 28.10.2021. The learned advocate for the defendants has given their say on the application itself and prayed for rejection of the application, in alternate prayed for costs.

2. Applicants contended that, plaintiffs has given the evidence affidavit. Defendant has not cross-examined him. Hence, the Court passed no-cross order on the said affidavit. After being the application filed by the plaintiffs for issuing the witness summons to the T.I.L.R., the Court issued the summons to the T.I.L.R. The plaintiff has paid the requisite bhatta. The said summons is served to the witness. Plaintiffs is in impression that the said T.I.L.R will appear before the Court as witness. Hence, plaintiff has not filed the further application. Meantime on 28.10.2021 the evidence of the plaintiffs is closed. The T.I.L.R. is the important witness and it is necessary to take his evidence for the ends of Justice. Hence, plaintiffs prayed for setting aside the evidence closed order passed on dated 28.10.2021.

3. The learned advocate for the defendants submitted that the reasons stated in the application is not proper. Plaintiffs not made the further evidence within time. Hence, the evidence of the plaintiffs is closed. Hence, the learned advocate for the defendants prayed for rejection of the

application and in alternate prayed for costs.

4. The plaintiffs has filed the present suit for recovery of possession by removing the encroachment and for mesne profits. On perusal of the suit and application it seems that important civil rights of the applicants are involved. It is necessary to decide every suit on merit rather than the technicalities. Hence, considering the reasons stated in the application it needs to be allowed. However, the delay caused can be compensated by imposing proper cost. Hence, I pass the following order:

**ORDER**

1. Application is allowed subject to depositing the cost of Rs. 200/-.
2. Cost be given to the defendants on or before next date.
3. Parties to take note accordingly.

Date : 02/02/2022

(A.T.Mangire)  
Civil Judge Jr. Division,  
Shirur kasar.

“I affirm that the contents of this PDF file are word to word as per original Judgment/order”.

Sd/-  
[P.B. Kusumkar]  
Stenographer Grade-3

Dictated on : 02/02/2022

Transcribed on : 02/02/2022

Checked & signed on : 02/02/2022