

**ORDER BELOW EXH. 33**  
( Passed on 10<sup>th</sup> June, 2021 )

The present application filed by the plaintiff for setting aside evidence closed order passed below Exh. 1 of dated 26-02-2020.

2. The plaintiff averred that on 17-07-2019 he filed his evidence of affidavit at Exh.27. The plaintiff further averred that his evidence side was closed by passing an order below Exh. 1 of dated 26-02-2020. The plaintiff further averred that for fair trial an opportunity be given to him for leading evidence. Therefore, the plaintiff filed the present application for setting aside evidence closed order passed below Exh. 1 of dated 26-02-2020.

3. Defendants filed their say and submitted that several chances given to the plaintiff for leading his evidence. Defendants further averred that the plaintiff intentionally prolonging the present suit. Defendants further submitted that the present application is not maintainable. Therefore, defendants prayed for rejection of the present application.

4. Heard learned advocate Mr. P.B. Ganboir for the plaintiff. Also heard learned advocate Mr. B.T. Maskare for defendants.

5. Perused the record. After perusal of record it appears that the plaintiff filed the present suit for perpetual injunction. After perusal of record it also appears that an adjournment application filed by the plaintiff below Exh. 31 was allowed as a last chance. Furthermore, an adjournment application filed by defendants below Exh. 32 was also allowed as a last chance. After perusal of record it

also appears that on 26-02-2020 the plaintiff and his advocate was absent, therefore, evidence side of the plaintiff was closed. After perusal of record it also appears that the plaintiff filed his evidence of an affidavit below Exh. 27 of dated 17-07-2019. Since 17-07-2019 the present suit was pending for evidence of the plaintiff.

6. Now coming towards the present application the plaintiff wants to lead his evidence for proving his case. Therefore, the plaintiff filed the present application for setting aside no evidence order passed below Exh. 1 of dated 26-02-2020. After perusal of record it appears that the plaintiff filed the present suit for perpetual injunction. The present suit is related to immovable property. For fair trial it is necessary to give an opportunity to the plaintiff to prove his case. If an opportunity is not given to the plaintiff it will cause hardship to him. Per contra it will avoid multiplicity of the proceeding. For proper adjudication of the present suit it is necessary to give an opportunity to the plaintiff for proving his case. Considering facts of the case and circumstances for a fair trial an opportunity needs to be granted to the plaintiff for proving his case. So in the interest of justice I proceed to pass the following order.

### **ORDER**

1. The present application is hereby allowed subject to costs of rupees 1000/- (One Thousand Only) be paid to defendants.
2. Evidence closed order passed below Exh.1 of dated 26-02-2020 is hereby set aside on payment of said costs.
3. The plaintiff is also directed to lead evidence on next date.

4. If the plaintiff failed to pay costs of rupees 1000/- (One Thousand Only/-) to defendants on or before next date then the present order is automatically set aside.

Pronounce and dictated in an open court.

Date:- 10-06-2021

Sd/-  
Mohmad Wasim Akram  
S/o Mohmad Jalal Sheaikh  
Civil Judge Junior Division  
Deori