

Order passed below Exh. 101 in R.C.S. No. 190/2013

1. Defendant No.1 to 3 filed this application to take cross-examination of plaintiff again for the reason that inadvertently some questions relating to documents were not asked in cross-examination . So prayed for permission to take cross-examination of plaintiff again.
2. Plaintiff filed say and stated that these documents are 30 years old and have presumption. The plaintiff is the only party of the documents who is alive , if he proves these documents no loss will be caused to the the defendant . So, prayed for granting of application.
3. Defendant No. 4 to 8 A to D filed say and stated that the plaintiff has not filed alleged documents and also not stated about the custody of it. Defendant No.1 to 3 filed these documents in year 2019 and they also completed cross-examination of plaintiff. They also have opportunity to lead evidence so, after completion of cross-examination of the plaintiff by other contesting defendants , defendant No. 1 to 3 can not took cross-examination of the plaintiff again . So, prayed for rejection of the application.
4. Defendant no. 13 adopted the above say .
5. Defendant No. 10-12 filed say at Exh.103. They stated that Defendant No. 1 to 3 are colluding with the plaintiff and filed written statement. The application is against provisions of Civil Procedure Code and Indian Evidence Act. They already completed cross-examination of the plaintiff. Now to fill the gap said application is filed . If permission granted the admissions came in cross-examination by other defendants will be hampered. So prayed for rejection of the application.
6. Heard, all the advocates at considerable length . They all argued as per above contents of the application and say.

7. Plaintiff filed said suit for partition. They pleaded about the alleged partition deed , but they not pleaded that in whose possession these documents are . Defendant no.1 to 3 are colluding with the plaintiff. They also pleaded about the partition deed but not pleaded about the custody of it in their written statement.

8. Defendant no. 1 to 3 filed these documents after application of the plaintiff , as per order of the Court. After further chief examination of the plaintiff defendant no.1 to 3 cross-examined the plaintiff on 16-07-2025. Defendant no.1 to 3 filed these documents on 26-09-2019 . During cross-examination defendant no.1 to 3 not referred these documents to the plaintiff and not asked any question about it. As per Order 18 Rule 17 of Civil Procedure Code , 1908 discretion given to the court to decide such application. Inadvertently questions not asked on these documents during cross-examination is not a ground to recall the plaintiff again and that also after completion of his cross-examination by other contesting defendant .Defendant no.1 to 3 have opportunity to lead their evidence during which they can take efforts to prove these documents. So the ground raised by defendant no.1 to 3 for permission to cross-examination plaintiff again is not just. So application is liable to be rejected. Hence, I pass following order.

ORDER

Application is rejected

Date : 21/02/2026
Place : Gadhinglaj

D. M. Pawar
2nd Jt. Civil Judge Jr. Dn.
Gadhinglaj