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|  | Geeta Ashoke Hirugade etc.02 Vs. Ananda Parsu Hirugade |
|                                                                                   | CNR No. MHKO130010812024                               |

**ORDER BELOW EXH. 19 IN R.C.S.No. 152/2024**

1. This is an application at the instance of Plaintiff wherein Plaintiff has prayed to permit him to cross-examine the witnesses namely Ananda Parsu Hirugade, Ramesh Dhulappa Gharal and Maruti Dadu Chaugle who have filed affidavit in support of their defence to the application below Exh. 5 for temporary injunction vide Order 39 Rule 1 and 2 of the Code of Civil Procedure. The Plaintiff has submitted that the above deponents have deposed falsely in their affidavits. Hence they need to be cross-examined.
  
2. The Defendants vide their say at Exh. 26 have apposed the application on the ground that the present application is not maintainable. It is submitted that the Defendants have filed affidavit of Ananda Parsu Hirugde, Ramesh Dhulappa Gharal and Maruti Dadu Chaugle in support of their defence for an application below Exh. 5 for temporary injunction and therefore cross-examination of these witnesses can not be allowed.
  
3. Heard learned counsel for both the sides. Perused the record. On perusal of of record it reveals that the present suit is posted for arguments of application below Exh. 5 wherein the Plaintiff has prayed for the relief of temporary injunction vide Order 39 Rule 1 and 2 of the Code of Civil Procedure. In the mean time Defendants have filed supporting affidavits and the Plaintiff has prayed vide this application to cross-examine the deponents on the ground that they are deposing false in support of application below Exh. 5.

4. On perusal of Order 19 Rule 2 it states that evidence may be given by affidavit on an application but the Court may at the instance of either party order the attendance for cross-examination of deponents. In this regard the Plaintiff is relying on the judgment of Hon'ble High Court of Rajasthan in Civ. Riv. Petition No. 587/1984 decided on 28/08/1989(Ramswarup and others Vs. Bholuram)

5. It is held that having regard to the statutory provisions contained in section 30 and Order 19 Rules 1 and 2 of Code of Civil Procedure read with Order 39 Rule 1 the Court has power to call the deponents for cross-examination when an affidavit has been filed in support of an application under Order 39 Rule 1 of Code of Civil Procedure. Hon'ble Rajasthan High Court has agreed with view taken by the Hon'ble Bombay High Court, Nagpur Bench and Andhra Pradesh High Court.

6. In view of the above position of law certainly the application of Plaintiff needs to be allowed. Accordingly I pass following order.

### Order

|    |                                                                                                                                        |
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| 1. | Application is allowed.                                                                                                                |
| 2. | Issue witness summons to Ananda Parsu Hirugde, Ramesh Dhulappa Gharal and Maruti Dadu Chaugle to remain present for cross-examination. |

Kagal  
Date:- 22/01/2026

(A.B.Madake)  
Civil Judge Junior Division,  
Kagal.