


MHKO140000131998 	R.C.S. No.123/1998 Shri Maruti Jamdar & Ors. Vs. Shri Hari Dani & Ors.
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ORDER BELOW EXHIBIT- 296

(Passed on- 10/03/2026)

1. The defendant has filed present application and thereby prayed to reopen the case to record the evidence of Umesh Hari Dani (D.W.2) to the extent of marking exhibit number to the documents at list exhibit no.26, 23, 135, 136, 2 & 3.
2. The defendant submitted that, they have examined Shri. Shankar Dani as D.W. 1, who is father of defendant. While examination, they have produced certain documents as per list Exh.26, 23, 135, 136, 2 & 3. But those documents are remained to be exhibited by oversight. Those documents are very important to decide the matter in issue under the circumstances it is just and necessary to reopen the case to record the evidence of D.W.2 Umesh Hari Dani. It is submitted that, it is procedural aspect and this Court has ample power to allow the application in the interest of justice and equity. No hardships will be caused to the plaintiff if the application is allowed. On the contrary if the application is rejected, then defendant will suffer hardships. Hence, present application.
3. The learned advocate for plaintiff filed say and opposed the application. It is submitted that, the present application is not tenable that the defendants have not mentioned anything in their evidence affidavit regarding the documents. No further evidence or statement is recorded. At this stage those documents cannot be read in evidence and cannot be marked exhibit number. The defendants tried to rely and adduce evidence regarding the documents filed in R.C.S. No.218/1998. But without confrontation, those statement or

document cannot be read in evidence. The evidence of defendant is closed long back. At this stage the trial cannot be reopened. Hence, application is liable to be rejected.

4. Perused the record. Heard learned advocate for both side. It is seen that, the plaintiff has filed present suit for declaration and perpetual injunction. The evidence of both side is closed and the matter is pending for final argument. However, it is also seen that, the matter is pending for since long time for awaiting report for Tenancy Court.
5. The learned advocate for plaintiff argued that, at this stage the application is not tenable. He relied on *Havovi Kersi Sethna Vs. Kersi Gustad Sethna {2011(2) All MR 577}*. *In this case the Hon'ble Bombay High Court issued guidelines regarding production of documents at appropriate stage. It is held that, as per Order 13 Rule 1 as per C.P.C., the original documents are required to be produced by the parties and received by the Court at appropriate stage.*
6. However, in the present matter admittedly the documents as mentioned in the present application are already filed on record. According to defendant, those documents are inadvertently not given exhibit number during the examination of defendant witness. So with respect, I am of the view that the fact and circumstances of the present matter and facts in the aforesaid authority are different. In the present matter the defendant wants to mark exhibit number to certain documents which are already on record. However, the matter is old one and involved the issue of declaration and injunction. The purpose of trial is to find out the truth. All the material evidence has to be considered while dealing with the matter. Though the matter is pending for final argument, it is seen that the report of Tenancy Court is yet to be filed. The issue of tenancy was referred and it is pending before Appellate authority. In such situation if the application is allowed and defendant is permitted to reopen the case

for marking exhibit number, then no prejudice or loss will be caused to the plaintiffs. Because the permission will be to the extent of marking exhibit number. Moreover, the plaintiff will be having an opportunity to conduct the cross examination. Record shows that, the matter is pending for awaiting tenancy report since long. Therefore, if the application is allowed then no prejudice will be caused to the plaintiff. Accordingly, I pass following order.

ORDER

1. Application is allowed.
2. The defendant is permitted to reopen the evidence to the extent of marking exhibit number to those documents as mentioned in the application as per rule.

Date : 10/03/2026

[Waman D. Jadhav]
Jt.Civil Judge Junior Division, Chandgad.
[Judge Code- MH3143]