

R. C. S. No. 99/2012.
Suresh Vs. Ramchandra & Ors.
MHKO150001832012.

ORDER BELOW EXH- 91.

Defendants have filed this application for setting aside evidence close order passed against them dtd. 12.03.2026. It is contention of defendants that, plaintiff on last date under misunderstanding filed pursis and close their evidence. In result they could not able to adduce their evidence. Their application rejected by the court. They are ready to adduce evidence. Hence, prayed to allow the application.

2. Plaintiff has filed his say overleaf of application and strongly opposed. He contended that, sufficient opportunity given to defendants. Inspite they failed to adduce evidence. Application be allowed subject to heavy cost.

3. Heard. It is settle principal of natural justice to every party grant sufficient opportunity to contest suit. Further, Hon'ble Apex Court in ***G. Ratan Raj Vs. Mutthukumar Swami Permanent Fund (Ltd.)***¹ observed that, if there is bonafide reason for non appearance like illness or other, the court should lean towards allowing the party to contest the case on merit rather than passing a default orders.

4. Herein as per record, on 12.03.2026 no evidence order was passed against these defendants. Further, as per record on 14.11.2025 plaintiff closed his evidence. Thereafter, more than sufficient opportunity granted to defendants. Their application at Exh.89 allowed subject to cost. Yet defendants not comply said order.

¹ AIR online 2019 SC 2571.

Therefore, considering conduct no evidence order passed against defendants. The record itself shows falsity of defendant's claim.

5. Further, defendants have filed this application on next date of passing adverse order. It shows that, they have every knowledge of proceeding. This conduct of defendants is not justifiable. However, this is suit for perpetual injunction and pretty old. For giving fair opportunity one more chance need to be given to these defendants. At the same time, considering conduct of these defendants some cost need to be impose over them. Hence, in result of above discussion in the interest of justice, this court pass following order,

ORDER

1. Applications stand allowed, subject to cost of Rs.500/- paid to the Legal Aid, Ajara by defendants on or before next date.
2. After payment of cost amount, evidence close order dtd. 12.03.2026 would be set aside and defendants are permitted to lead their further evidence.

(R. P. Thore)

J.O.Code No.MH02897
Civil Judge, Junior Division,
Ajara.

Place- Ajara.
Date- 11.06.2026.