

**ORDER BELOW EXH – 309.**

Plaintiff has filed this application for adducing additional evidence. It is contention of plaintiff that, he has filed this suit for partition. Defendant no.1 and 2 filed their W. S. and took defence of previous partition. They have specifically contended that, Block no.526, 30 & 122 allotted to the share of plaintiff. Further, they have admitted the property in Block no.122 was acquired by Government and contended that, compensation amount received by plaintiff in their evidence. However, due to objection of these defendants on basis of this suit said amount not yet received by plaintiff. Defendants in their evidence specifically raised contention about compensation amount of Block no.122. Plaintiff intend to adduce additional evidence in respect of the same and therefore prayed to allow his application.

2. Defendants have filed their say at Exh-310 and strongly opposed the application. They contended that, now suit is pending final argument and plaintiff with mala-fide intention filed this application. More particularly plaintiff neither array Block no.122 in suit nor contended for the same in his plaint or evidence. Defendants specifically raised objection for the same. The plaintiff without adding Block no.122 in present suit would not able to evidence for the same. Further, plaintiff has not pleaded what kind of evidence he has intend to adduce. No prayer in respect of distribution of compensation granted of Block no. 122. The issue raised by plaintiff is not matter in issue. Hence, prayed to reject the same.

3. I have heard counsel for both sides at considerable length. They

argue as per verbatim of their application and say. Before adverting the merits of the case herein pertinent to note that, as per roznama this case is posted for final argument and after taking sufficient adjournment plaintiff has filed this application. The contention of application shows that, plaintiff intend to adduce evidence in respect of compensation amount of Block no.122. However, as per contention of plaintiff, these defendants in their evidence specifically contended that, he has received the compensation amount.

4. The evidence of defendant no.1 & 2 completed on 17.01.2025. Thereafter, on 11.03.2025 evidence of defendant no.5 & 6 has been closed. Plaintiff thereafter remain silent over the same and finally filed this application. On perusing evidence of defendant no.1 & 2, therein they have specifically stated that, plaintiff has received compensation amount of Block no.122. This is suit for partition and separate possession. Hon'ble court in the judgment of *Mukund Housing Society Ltd. Bombay Vs. Vasant Patil through L.R & Ors.*<sup>1</sup> observed that, where an application for adducing additional evidence found to be bonafide and where additional evidence oral or documentary, will assist court to clarify evidence on issues and will assist in rendering justice that application is required to be allowed and delay in filing application can be compensated by cost. Therefore, merely on that ground opportunity to adduce evidence not denied to this plaintiff. Further, more defendant no.1 & 2 contended that, plaintiff has received compensation amount and considering their submission no serious prejudice would cause to them if application allowed. Per contra, if it rejected it would amount of denial of fair trial to plaintiff. Therefore, present application deserve to

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1. (2015 (4) Mh. L. J. 855.)

be allowed by imposing some cost to compensate the delay. Hence, in result of above discussion in the interest of justice I pass following order,

**ORDER**

1. Application is allowed as under subject to cost of Rs. 3,000/- paid to the plaintiff.
2. Parties to take note and proceed further.

Place - Ajara.  
Date – 06.03.2026.

**(R. P. Thore)**  
Civil Judge, Junior Division,  
Ajara.

