R.C.S. No. 63/2017.
Kalpana & Ors. Vs. Dattatray & Ors..
MHKO150003412017.

COMMON ORDER BELOW EXH- 61 & 62.

Plaintiffs have filed this application for setting aside no evidence order passed against them. It is contention of plaintiff that, they have filed this suit for partition and declaration. Plaintiffs are resided at Mumbai & Pune. The plaintiff no.1 manage the proceeding. However, due to her illness she could not able to attend the court and adduce further evidence. Plaintiffs having hope of success and for proving their claim they have to examine witnesses of partition deed. Therefore, in the interest of justice prayed to allow their application.

2. Counsel for defendants endorsed his say at backside of the application and contended that, more than four dates has been taken by plaintiffs for adducing further evidence. The reason sought by plaintiffs are not justifiable. The witness intended to examine by plaintiffs namely Dhondiba & Arvind had been died before 25 and 5 years respectively. Plaintiffs with intend to prolong the case have filed this application. Thus, prayed to reject the same with heavy cost.

3. I have heard counsels for both sides at considerable length. Herein, plaintiffs intend to examine witnesses in respect of partition deed. The defendants contended that, some of the witnesses claim by plaintiffs are no more. However, they have not filed conclusive proof for the same.

4. Present suit is for partition and declaration. Plaintiffs having every right to prove their case. As per plaint caption clause, plaintiff no.1 is more than 50 years old at the time of filing suit. The reason sought by plaintiffs seems justifiable. No prejudice would be caused to the defendants if application allowed. Per contra if it rejected, plaintiffs would suffer irreparable loss and it amount denial of fair trial. Therefore, considering the age of proceeding, in the interest of justice I pass following order,

ORDER

1. Applications stand allowed, no order to cost.

2. Evidence close order passed against plaintiffs dtd. 11.06.2025 is hereby set aside and permitted them to lead further evidence.

3. Issue witness summons as prayed by plaintiffs vide application at Exh.62 subject to witness bhatta.

4. Parties to take note and proceed further.

Digitally signed by RAVI PANDURANG THORE

(R. P. Thore)
J.O.Code No.MH02897
Civil Judge, Junior Division,
Ajara.

Place- Ajara.
Date- 16.07.2025.