



ORDER BELOW EXH.197 IN R.C.S.No.133/2012
[Sagar Yallappa Koli And Ors. v. Sagar Ramu
Aambi (Deceased) Through Lrs. And Ors.]

Plaintiffs have filed present application seeking permission to file additional evidence affidavit in view of amendment in the plaint, written statement of defendant Nos.3 and 4 (Exh.190) and replica of plaintiffs (Exh.196).

02. It is contended that, during pendency of this suit, defendant Nos.3 and 4 have been impleaded in the present suit and paragraph Nos.6(A) and 6(B) have been incorporated in the plaint as per order passed below amendment application (Exh.163), dated 24.04.2025. Thereafter, defendant Nos.3 and 4 have filed their written statement vide Exh.190. In view of contentions of written statement of defendant Nos.3 and 4, plaintiffs have filed their replica vide Exh.196. Hence, in view of aforesaid amendment in the plaint, written statements of defendant Nos.3 and 4 (Exh.190) and replica of the plaintiffs (Exh.196), plaintiffs may be permitted to file additional evidence affidavit of plaintiff No.3.

03. Defendant Nos.1(A) and 1(B) have strongly resisted present application by filing their say on overleaf of present application. They contended that, the application is devoid of merits. Replica is not pleading of plaintiffs and hence, plaintiffs can not be permitted to file additional evidence affidavit. Hence, they prayed that, present application may be rejected with cost.

04. In spite of ample opportunity being given, defendant Nos.2 to 4 failed to file their say on present application. Hence, present application is hereby proceeded on merit without say of defendant Nos.2 to 4.

05. Heard learned advocates for both sides at length. Arguments are set forth in consonance of their pleadings.

06. On perusal of record and proceeding it appears that, this is a suit for specific performance of agreement to sale. It further shows that, during pendency of the suit, defendant Nos.3 and 4 have been impleaded in the present suit and paragraph Nos.6(A) and 6(B) have been incorporated in the plaint as per order passed below amendment application (Exh.163), dated 24.04.2025. Thereafter, defendant Nos.3 and 4 have filed their written statement vide Exh.190. In view of written statement (Exh.190) of defendant Nos.3 and 4, plaintiffs have filed their replica vide Exh.196 as per order passed below Exh.192, dated 27.11.2025. In the backdrop of above peculiar facts and circumstances, plaintiffs are seeking permission to file additional evidence affidavit of plaintiff No.3.

07. It is well settled that, replica or rejoinder are subsequent pleadings under Order VIII Rule 9 of the Code of Civil Procedure. Replication is purely a defensive pleading. Hence, considering above peculiar facts and circumstances, it would be just and proper to grant permission to plaintiffs to file additional evidence affidavit of plaintiff No.3. Consequently, present application deserves to be allowed. Hence, I pass following order :-

:: ORDER ::

1. Application (Exh.197) is allowed.
2. Both the parties to bear their own costs.

(Dictated and pronounced in the Open Court).

Date: 16.12.2025.

(Balasaheb S. Gaikwad)
Civil Judge, Junior Division,
Kurundwad.