



Order Below Exh.43 In Civil M.A. No.09/2016.
[Akapita Kisan Karekatti v. Muradevi Baburao
Magdum And Anr.]

Non-applicants have filed present application for setting aside 'evidence close' order passed against them.

02. Learned advocate Shri. I.G.Ghori for non-applicants submitted at bar that, due to his illness, non-applicants could not filed on record their evidence affidavit. Hence, as per order passed below Exh.1, dated 24.02.2026, evidence of non-applicants came to be closed. He further submitted that, for just decision of the case, opportunity to adduce evidence may be granted to non-applicants. He lastly prayed that, the application may be allowed.

03. The applicant has strongly resisted present application by filing her say vide Exh.45. Learned advocate Smt. S.V.Kamble for the applicant argued that, the application is devoid of merits. Reasons mentioned in the application are not justifiable. In spite of ample opportunities being given, non-applicants failed to adduce evidence. Hence, she prayed that, the application may be rejected. She alternatively submitted at bar that, if the Court comes to the conclusion to allow present application, cost of Rs.5,000/- may be imposed upon non-applicants while allowing present application.

04. On perusal of record and proceeding it appears that, the main application is filed for Contempt of Court Act and under Order XXXIX Rule 2(A) and Section 151 of the Code of Civil Procedure. It shows that, in spite of ample opportunities being given,

non-applicants failed to adduce evidence. Hence, as per order passed below Exh.1, dated 24.02.2026, evidence of non-applicants came to be closed. However, considering reasons mentioned in the application, submissions of both sides as well as in view of nature of the application and interest of parties involved in the main application, it would be just and proper to give opportunity to non-applicants to adduce evidence. Non-applicants have filed present application after considerable lapse of time. However, the delay caused by non-applicants can be compensated by imposing cost upon them. Considering above peculiar facts and circumstances and the delay caused by non-applicants, it would be just and proper to impose total cost of Rs.1,000/- on non-applicants. Resultantly, I pass following order :—

:: ORDER ::

1. Application (Exh.43) is hereby allowed subject to costs of Rs.1,000/- (Rupees One Thousand Only) payable to the applicant.
2. Payment of cost shall be condition precedent for setting aside evidence close order passed against non-applicants.
3. Accordingly, application (Exh.43) is disposed of.

(Dictated and pronounced in the Open Court).

Date : 05.05.2026.

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