

Order below Exh 58 in RCS No 99/2012

Defendant No. 4 has filed the present application for seeking the permission to cross-examine to defendant no. 5. According to him, the property mentioned in the para no. 1 and 2 of the plaint are given in favour of defendant no. 4 for maintenance. Thereafter, these properties are transferred in the name of defendant no. 5 to 7. Therefore, he may be permitted to cross-examine the witness.

02. Plaintiff has strongly opposed the application on the ground that defendant no. 4 and defendant no. 5 to 7 are related with each other. Their defence is consistent with defendant no. 5 to 7. Hence, he prays for rejection.

03. Heard both sides. Perused the application and say. The evidence of defendant no. 2 to 4 is already completed. Now defendant no. 5 has filed the affidavit of examination in chief below Exh. 200. Defendant No. 5 to 7 are the son of defendant no. 4. Mere the sons of defendant No 4 have filed the separate written statement is not ground for cross examination to them. It is well settled position of law that, where the defendant demonstrates that the co-defendant's evidence would adversely affect his interest, cross examination of such co-

defendant is permissible. Therefore, in my opinion evidence adduced by defendant no. 5 to 7 is not adverse to defendant no. 4. Hence, following order :-

ORDER

01. Application is rejected

02. Costs in cause.

Radhanagari.

Date :- 09-09-2016.

Sd/-

(M. S. Todkar)

Civil Judge, Jr. Dn., Radhnagari.