

MHKO190004662009



R.C.S.No.220/2012

**Tukaram Ganu Patil Vs. Shrimati Laxmibai Sakharam Patil etc. 9**

**COMMON ORDER PASSED BELOW EXH.138 and 139**

1. The plaintiff has filed present applications for permission to re-examine himself and for setting aside no-re-examination remarks noted in his evidence.
2. Defendants have filed their say on the overleaf of both applications and strongly opposed the applications. They prayed for rejection of both applications.
3. Heard both sides.
4. The Ld. Advocate for the plaintiff submitted that during cross-examination, the Ld. Advocate for defendants shown Vakalatnama and plaint to the plaintiff. The plaintiff had filed suit through Adv. Shukla. Lateron, he filed vakalatnama of Adv. A. B. Raibagkar. The plaintiff suffered paralysis attack and he put his left thumb impression on second vakalatnama. Out of the said confusion, the plaintiff denied his signature on first vakalatnama and plaint. In order to explain the said ambiguity, the re-examination of the plaintiff is necessary. The plaintiff, immediately had filed the application for permission of re-examination, but as a routine manner there is remark, no-re-examination in the deposition of the plaintiff. Hence, he prayed that both applications may kindly be allowed.

5. The Ld. Advocate for the plaintiff further submitted that if the party who called the witness feels that the explanation is required for any matter referred to in cross-examination, he has the liberty to put any question in re-examination to get the explanation. In support of the above said submission, he placed reliance on **Megaxama Ramkrishna Sinai Cacodkar Vs. Satchidanand Sadashiv Sinai Cacodkar 2014 CJ (Bom) 2424.**

6. Per contra the Ld. Advocate for defendants submitted that the plaintiff is well educated person. He had denied his signature over first vakalatnama and plaint in cross-examination. There is no need of any explanation. The plaintiff is trying to fill up the lacuna. Hence, prayed for rejection of both applications.

7. Perused the record. It appears that the plaintiff has filed the present suit for partition, declaration and mesne profits. I have gone through the evidence of the plaintiff. It appears that the plaintiff had denied his signature over the first vakalatnama and plaint. The record shows that the plaintiff had filed second vakalatnama of Adv. A. R. Patil and it bears his signature. However, the third vakalatnama of Adv. A. B. Raibagkar appears to be filed on 10/07/2013 and it bears left thumb impression of the plaintiff. So there might be confusion in the mind of the plaintiff about his signatures over vakalatnama and the plaint.

8. In the case of **Megaxama Ramkrishna Sinai Cacodkar (supra)** the Hon'ble Bombay High Court held that *"if the party who called the witness feels that the explanation is required for any matter referred to in cross-examination, he has the liberty to put any question in re-examination to get the explanation"*.

9. Considering the above said discussion, if permission of re-examination is given, no prejudice would be caused to defendants. Defendants are at liberty to again cross-examine the plaintiff after his re-examination. Therefore, both applications deserves to be allowed. In the result, I pass following order.

**ORDER**

1. Both applications Exh.138 and 139 are allowed.
2. The plaintiff is permitted to re-examine himself.
3. The remark No-re-examination is set aside.
4. Both parties to take note of this order and comply accordingly.

Date:18/04/2024

**(D. M. G. Malidwale)**  
Civil Judge Junior Division,  
Radhanagari.