

Order below Exh.95 in RCS No.71/2016

By this application defendant Nos. 1 and 2 have requested for recalling plaintiff and her witness and for granting permission to conduct their further cross examination on the grounds stated in the application. Plaintiff failed to file her say. Perused application. Heard learned advocate Shri. P.L.Narhare for defendant Nos.1 and 2, who submitted in the line of his application and requested to allow the same.

2. Record shows that plaintiff has filed this suit for partition and separate possession of the suit properties described in para No.2 of the plaint. Defendant Nos.1 and 2 appeared and filed their WS at Exh.35 on 17.06.2016. The suit came to be abated against defendant NO.3 and is proceeding ex-parte against other defendants. Record further shows that issues are framed at **Exh.40** and accordingly plaintiff has examined herself at **Exh.41** and her witness namely Suresh Somnath Karwande as PW No.2 at **Exh.48**. Thereafter, defendant Nos. 1 and 2 moved an application at **Exh.87** for granting permission to carry out amendment in their WS, which came to be allowed by order dated 30/09/2021. Accordingly, defendant Nos. 1 and 2 have pleaded some facts in para No.2 of their WS at **Exh.35** by way of this amendment. The cross examination of plaintiff and her witness was conducted prior to this amendment. IN view of these subsequent developments which took place after carrying out amendment in the WS by defendant Nos.1 and 2, in my opinion, it is necessary to grant permission to defendant Nos.1 and 2 to further cross examine plaintiff and her witness, so far as the facts which are pleaded by way of amendment. No prejudice will be caused to plaintiff. Hence, I pass following order:-

ORDER

1. Application is allowed.
2. defendant Nos.1 and 2 are hereby permitted to conduct further cross examination of plaintiff and her witness namely Suresh Somnath Karwande, to the extent of facts which are pleaded by way of amendment in para No.2 of their WS at Exh.35.
3. Plaintiff and her witness namely Suresh Somnath Karwande shall remain present in the Court on next date. In case, if they fails to appear then defendant Nos. 1 and 2 shall take appropriate steps for securing their presence.
4. No order as to costs.

Order dictated and pronounced in open Court.

Date :17/11/2022

(Ashish B. Marlecha)
Civil Judge (Sr.Dn.),
Nilanga, Dist. Latur.