

Order below Exh.71 in RCS No.409/2016

By this application defendant Nos.1,2 and 4 to 6 have requested to set aside order dated 27/01/2025, by which their evidence came to be closed on the grounds mentioned in the application. Plaintiff has filed his say and raised strong objections. Perused application and say. Heard both the sides. Record shows that plaintiff has filed this suit for recovery of possession. Defendant Nos.1,2 and 4 to 6 have filed their WS at **Exh.23** and **Exh.30**. Issues are framed at **Exh.32**. Plaintiff has examined himself and other witnesses on his behalf.

2. Record further shows that defendant No.1 examined himself at **Exh.63** and as he failed to offer himself for recording his cross examination, his evidence came to be discarded by order dated 05/09/2024. Prior to this, the adjournment application filed by defendant Nos.1, 2 and 4 to 6 at **Exh.56** came to be rejected and their evidence came to be closed by order dated 27/10/2023. This order dated 27/10/2023 came to be set aside by allowing the application filed by defendant Nos.1,2 and 4 to 6 at **Exh.59** and the evidence of defendant No.1 again came to be read and recorded. Thereafter, defendant Nos.1,2 and 4 to 6 have examined defendant No.2 at **Exh.68** and his cross examination came to be completed on 07/12/2024.

3. The adjournment application filed by defendant Nos.1,2 and 4 to 6 at **Exh.69** was allowed as last chance. Despite this, on 27/01/2025 they moved an application at **Exh.70** seeking adjournment which came to be rejected and the impugned order came to be passed. The record is crystal clear and it shows that sufficient opportunities were given to defendant Nos.1,2 and 4 to 6 for proceeding with the matter. Today, defendant Nos.1,2 and 4 to 6 have filed affidavit of their witness namely Jitendra A.Mule alongwith this application. Considering the nature of suit and this Court being a fact finding Court, in my opinion it is necessary to grant an opportunity to defendant Nos.1,2 and 4 to 6 to adduce their further evidence. No prejudice will be caused to plaintiff. However, while doing so, the conduct of defendant Nos.1, 2 and 4 to 6 and the fact that already they were given opportunity to adduce further evidence by setting aside the order dated 27/10/2023 cannot be neglected and for that purpose it is necessary to saddle heavy cost upon them. In the result, I pass following order:-

ORDER

1. The order dated 27/01/2025 thereby closing the evidence of defendant Nos.1, 2 and 4 to 6 is set aside subject to cost of Rs.1000/- to be payable by them to plaintiff today itself.
2. After acknowledgment of cost amount by plaintiff, the evidence of Shri Jitendra A. Mule will be read and recorded.
3. Necessary order is passed below Exh.1.

Date :12/03/2025

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