

MHLA110015042018

Order below Exh.181 in RCS No. 438/2018
Faiyyaj Vs. Usman and Ors.

Perused contents of the application and say thereon. Heard to both side. Perused the record. Learned advocates for the parties submitted contents of the application and say thereon.

2. The plaintiff is seeking to examine defendant No.3 Taherabee Dastgir Shaikh as his own witness on the grounds that, the plaintiff and defendants No.1 to 3 are brothers and sisters, they have knowledge about the matter, defendants No.2 and 3 have not filed their written statement. The present suit is for partition and separate possession. Defendants No.1 to 3 have also shares in the suit property. Defendant No.3 is willing to depose on behalf of the plaintiff. On the contrary, defendants contended that the alleged grounds for examination of defendant No.3 for the plaintiff are not reasonable. The plaintiff is unaware about the same. Affidavit of examination-in-chief filed along with the present application is per-matured. The plaintiff have no right to file present application, contents of the application are false. Therefore, the same may be rejected.

3. However, the present suit is for partition and separate possession. Defendant No.3 has not filed his written

statement and resisted the plaintiff's claim. Defendant No.4, 6 and 9 and defendants No.5 and 12 to 15 denied the plaintiff's claim and lastly contended to dismiss the suit. Considering rival pleadings, the relief sought for and record, it reveals that, no prejudice would be caused to defendant No.4, 6 and 9 and defendants No.5 and 12 to 15 if the plaintiff is allowed to examine defendant No.3 as his own witness. So also, considering aforesaid facts, rival pleadings and nature of the controversies, it would be just and proper to allow the plaintiff to examine defendant No.3 as his own witness. Hence, in the interest of justice, I pass following order.

ORDER

1. Application vide Exh.181 is allowed
2. The plaintiff is hereby permitted to examine defendant No.3 as his own witness
3. No order as to costs.

Date :28/07/2026	(R. V. Pande)
Place: Nilanga	Civil Judge, Senior Division, Nilanga,
	District Latur.