

Order Below Exh.89.

This is an application filed by defendant no.01 for setting aside evidence close order passed on 17/10/2019 below Exh. 01.

2) Perused application and say filed by plaintiff. Heard both sides at length.

3) Learned advocate for defendant no. 01 submitted that, defendant no. 01 wants to adduced evidence on material particulars. Further, on previous dates necessary documents could not be available with defendant no.01. Hence, he could not adduced his evidence. Accordingly this Court has closed the evidence of defendant no.01. By this application defendant no.01 prayed to set aside the evidence closed order.

4) The learned advocate for plaintiff resisted the application and submitted that, the reason mentioned in the application is not sufficient. Defendant No.01 wants to prolong the matter. No evidence is adduced along with this application. Hence, plaintiff prayed to reject the application.

5) It is well settled principle of the law that every dispute shall be decided on merits. Defendant no.01 has filed affidavit in support of application. Suit is filed for partition and khas possession. Valuable rights of parties are involved in it. In such circumstances it would be just and in the interest of justice to give opportunity to defendant no.01 to lead the evidence. No serious prejudice will be

cause if the application is allowed. The delay cause by defendant no.01 can be compensated in terms of money. Hence following order.

ORDER

- 1) Application is allowed subject to cost of Rs. 200/- to be paid to the plaintiff.
- 2) After compliance of order defendant no.01 is permitted to lead evidence.

Nilanga.
Dated : 06.07.2020

(Atul B. Patil)
2nd Jt. Civil Judge, Junior Division,
Nilanga.