

Order below Exh No.81 in R.C.S.No.562/2014
(Vishnu Vs. Subhash)
MHLA14-001526-2014

The present application is moved by the plaintiff to seek permission to adduce evidence regarding the sale-deed No. 1310/2001 dated 26.04.2001.

2. It is contended that defendant has not adduce the evidence. Hence, his evidence is closed. At present the case is pending for the final argument. He has been seeking the declaration that registered sale-deed No. 1310/2001 dated 26.04.2001 is nominal. Accordingly, he sought the permission to lead secondary evidence vide Exh.No.39. However, inadvertently aforesaid sale-deed is not referred in evidence. Thus, he intends to lead the evidence in that regard.

3. The defendant No. 1 has filed his say on the backleaf of application. It contended that plaintiff has already closed his evidence. Hence, present application is illegal and liable to be rejected. However, remaining defendants have not filed the say hence, present application is proceeded without their say.

4. Perused the record. Despite of opportunity defendant No. 1 failed to argue. Hence application is proceeded without his argument.

5. The suit is instituted for declaration that the registered sale-deed executed by plaintiff in favour of defendant No. 1 is for the security of amount. During the trial issues were framed including issue No. 1 that does the plaintiff prove that sale-deed executed by

him in favour of defendant No. 1 dated 26.04.2001 is nominal and towards the security of loan. The plaintiff has examined three witnesses. However, defendants are failed to lead evidence. Hence, their evidence is closed by passing order below Exh.No.1. On the perusal of pleading it is clear that execution of sale-deed in favour of defendant No. 1 is not disputed. There is only dispute regarding that it is a reconveyance deed or out right sale. However, defendant No. 1 alleged that it is out right sale-deed of the suit property. As earlier stated execution of sale-deed is not disputed. Therefore, if the permission is granted to adduce the evidence as prayed it would not cause any injustice to the defendants. Moreover, it would be helpful to decide the case on merit. Hence, in the backdrop of above discussion present application deserves to be allowed. Therefore, I pass the following order :

ORDER

1. Application is allowed.
2. Permission is granted to the plaintiff to adduce the evidence in respect of sale-deed bearing No. 1310/2001 dated 26.04.2001.
3. Cost in cause.

Date:- 03.12.2025
Ausa.

(Smt. Shubhangi H. Nalawade)
3rd Jt. Civil Judge Jr. Dn., Ausa.