

MHLA160000292010 	<u>Reg. Civil Suit No.17/2012</u> <u>Dattatray & Ors. Vs. Premalabai & Ors.</u>
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ORDER BELOW EXHS.159

This is application to set aside 'No Evidence' order and permission to lead evidence.

2. Heard both sides at length. I have carefully gone through the record. This is suit for partition and separate possession. The plaintiff failed to produce and examine witness, therefore his evidence was closed on 12/02/2026. But thereafter, it was set aside vide order below Exh.156 on 16/02/2026. But the plaintiff failed to adduce evidence on 23/02/2026. Therefore, the plaintiff filed this application to complete evidence of PW-2, adduce evidence of PW-3. Today, learned Advocate Shri. Chidrewar for the plaintiff submitted that the plaintiff is ready to adduce evidence of PW-4 Mahadev, who is present in the Court. This application discloses the general reasons, which were within control of the parties and Advocate. This is base of imposing heavy costs.

3. Considering nature of suit, its subject i.e. landed property and to decide the right and liabilities, the plaintiff to grant an opportunity to adduce evidence of witness in support of his claim. This is fact finding Court and bound to find the truth. For that purpose, let's to go through the settled principle of law. An opportunity is the back bone of justice and if it is refused, there is every possibility of miscarriage of justice. It is an important to

mention here that, the law and rules of procedure are always handmaiden of justice and not suppose to defeat ends of justice. So, imposing costs will meet the ends of justice. Therefore, I reached to the conclusion that, plaintiff to grant an opportunity for adducing evidence of Sunil, Subhash and Mahadev subject to costs. This application is deserved to be allowed. Hence, I pass the following order.

-:: ORDER ::-

1. The application is allowed and plaintiff is permitted to adduce evidence of witness Sunil, Subhash and Mahadev only subject to costs Rs.1000/- and following conditions.
2. The plaintiff shall pay costs to the defendants or deposit in the Court and complete evidence of witnesses, failing which, order will be automatically cancelled.
3. Both parties shall expedite the suit and should not claim undue adjournment.
4. Order dictated on computer and pronounced in open court.

Date- 24/03/2026
Deoni.

(S.A. Surjuse)
Civil Judge Junior Division,
Deoni.