

MHLA160000772009



R.C.S.No.59/2009

Shakuntalabai Vs. Venkat & Ors.

ORDER BELOW EXH.122

This is application for setting aside evidence close order and permission to adduce evidence.

2. Heard learned Advocate Shri. V.N. Sankaye for the plaintiff and learned Advocate Shri. D.T. Patil for defendant No.1 to 3 at length. I have carefully gone through record. This is suit for partition and separate possession. This suit is remanded back for fresh trial and time bound. Therefore, it is expedited. However, the plaintiff has not filed list of witness. The plaintiff has adduced evidence of total three witnesses, inspite direction to lead evidence of all witnesses at a time.

3. The plaintiff came with reasons of defendants tried to pressurize the witness. But neither the application nor the argument disclosed name of witness, who has been pressurized. Similarly there is no police complaint. Therefore, alleged reason is not supported by materials. The plaintiff want to lead evidence of witnesses. Considering the same, there is necessity to grant an opportunity to adduce evidence, which is required for just decision of the case and to search the truth. It 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 handmaid of justice and not suppose to defeat ends of justice. So, imposing cost will meet the ends of justice. An objection of plaintiff

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going to fill up lacuna is immaterial as the plaintiff's case is open and defence side has ever chance to cross examine the witnesses and put forward the defence. Considering the nature of suit and need of opportunity to prove the case, this application is deserved to be allowed. Therefore, I reached to the conclusion that, the plaintiff has to grant opportunity for adducing evidence, subject to costs. Hence, I pass the following order.

-:: ORDER ::-

1. The application is allowed and the order dated 29/01/2026 is set aside and the plaintiff is permitted to adduce evidence of all witnesses at a time subject to cost Rs.500/-, payable to the defendant No.1 to 3.
2. The plaintiff shall comply the order and adduce evidence of revenue all witnesses at a time, failing which, order will be automatically cancelled.
3. Both parties shall expedite the matter.
4. Order dictated on computer and pronounced in open court.

Date- 03/02/2026
Deoni.

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