

**ORDER BELOW EXH. NO.34 IN Spl. C. S. NO.132/2023**  
**(Waman Bandgar Vs. Shivaji Patil)**  
**CNRNO.MHLA170020202023**

Defendant has filed application under Order 26 Rule 1 of the Code of Civil Procedure for appointment of Court Commissioner to examine himself as he is old aged person. He could not come before the Court to file his affidavit of examination in chief. Hence, it is necessary to record his examination in chief and cross-examination through Court Commissioner. Hence, it is prayed by defendant that, his application be allowed.

2. Perused the say of plaintiff. He objected the application on the grounds that, the application filed by defendant is based on false information. The defendant has not filed necessary medical documents in support of his application. The defendant has filed this application only to prolong the matter. On the contrary, the defendant is able to properly walk and speak. Therefore, the application is not tenable in the eyes of law. Hence, the plaintiff prayed to reject the application.

3. Heard learned counsels for both the parties. Perused the record. The application filed by defendant under Order 26 Rule 1 of the Code of Civil Procedure is not supported by any documentary evidence such as medical report or medical certificate to show that, defendant is unable to appear before the Court and adduce evidence. In view of Guidelines issued by the Honourable Supreme Court, evidence of such a witness can be recorded through video conferencing. Therefore, the application of defendant cannot be considered and is liable to be rejected. Hence, I pass following order.

**ORDER**

The application is rejected.

Date : 23.02.2026.  
Place : Ausa.

( P. I. Mokashi )  
Civil Judge Senior Division,  
Ausa.