

**ORDER BELOW EXH.C-45 AND C-48**

1] The application at Exhibit C-45 is filed by the first party for rejection of examination of affidavit of witness who has been cross examined by the first party and again second affidavit is filed by the same person at Exhibit U-227. The provisions of Order 18 Rule 4 of Code of Civil Procedure do not permit party to file second affidavit in examination by same person. Hence, further affidavit of same person is liable to be rejected / discarded.

2] The application at Exhibit C-48 is filed for D-exhibition of documents at Exhibit U-228 to U-288 exhibited without proper proof and exhibited documents in that event D-mark the exhibited.


3] The second party has filed reply to both the applications and claimed rejection of the same since on permission of leading secondary evidence to prove the documents and to the extent of proving the documents witness is examined the documents are exhibited and the order of Court is confirmed by the Hon'ble High Court in Writ Petition No. 14723/2023 and hence, application is not tenable and liable to be rejected with heavy cost.

4] I have heard Ld. advocate for first party and second party.

5] I have gone through the applications contents and reply filed by the second party and evidence recorded by the second party on the basis of affidavit of witness and exhibition of documents on examination of same witness at Exhibit U-227 and order passed by the Hon'ble High Court.

6] In view of evidence of the second party and <sup>cross</sup> examination by the first party and subsequent claim of pleading secondary evidence of documents as per claim vide application Exhibit U-226 the second party is permitted to lead additional evidence in support of secondary evidence and in consequence thereof further chief examination is filed vide Exhibit U-227 and documents are marked exhibited. The Ld. advocate for first party had raised objection about marking exhibition of documents. However, the documents are exhibited and therefore application is filed for rejection of affidavit and D-exhibition of document.

7] The second party has been permitted to lead secondary evidence and therefore, filed evidence affidavit of same witness at Exhibit U-227. The order of leading additional evidence for proving documents by way of secondary evidence is confirmed by the Hon'ble High Court. The witness is examined for leading additional evidence in support of secondary evidence and there is no bar for examination of same person for leading additional evidence as per order below Exhibit U-226. The witness has testified documents at Exhibit U-227 and accordingly documents are marked Exhibit U-227 to U-288. The exhibition of documents is on the basis of secondary evidence lead by the second party and mere exhibition of documents does not dispense with proof. The documents are required to be proved through its author and mere exhibition of documents it cannot be presumed that the contents of documents are proved. The documents are exhibited to identification purpose and consideration of proof thereof his matter of consideration as per law and no



prejudice would be caused to the first party when the test of proof of document is opened and first party is having right to cross examine witness to bring the correct facts on record and disprove the case as per law.

8] The exhibition of documents on the basis of additional examination of affidavit is recorded as part of procedure and the consideration of contents of affidavit and the status of document which are exhibited is matter of consideration and left opened whether it is proved or not and hence, rejection of evidence and d-exhibition of documents in such circumstances is not sustainable. The evidence of witness is recorded and documents are exhibited and mere marking of exhibit of document does not dispense with proof and right of cross examination is available to the first party and hence the rejection of examination of affidavit is not tenable. Consequently for the aforesaid reasons the applications filed by the first party deserves to be rejected. Hence, in the result, I proceed to pass following order.

**ORDER**

- 1] Application at Exhibit C-45 and C-48 are rejected.
- 2] Parties shall take note thereof.



[ D. S. Khedekar ]  
Incharge Judge  
Labour Court-2, Aurangabad.

Place: Aurangabad  
Date: 20/01/2026