

**Spl. Civil Suit No. 100/2017**  
**Bhagatsingh Nagri Sah. Vs. Arun**

**ORDER BELOW EXH. 128**

( Passed on this 15<sup>th</sup> of November 2025)

Plaintiff No. 1 is Nagri Sahkari Pat Purvatha Sanstha. Plaintiff No. 2 is its president. Plaintiff No. 3 is its vice president. Defendant Arun Giradkar is no more. His Lr. Widow Smt. Vimal is brought on record. Cross examination of Smt. Vimal was over on 30-11-2024. Thereafter, suit was pending for further evidence of defendant. However, at such stage, plaintiffs have filed this application Exh. 128 seeking permission to lead additional evidence. They submit that after their evidence was over, they learnt under RTI Act that defendant late Arun moved application on 22-05-2019 to Nagar Parishad Umred requesting it to remove the charge of plaintiff society over the flat No. F-105, Arunoday-1 at Budhwaripeth Umred, on the ground that loan amount was repaid by him and statement of loan account issued by the plaintiff, was relied upon by him. When the copy of such application was referred to DW-1 Smt. Vimal, she has denied it. This document is necessary to show that the defence taken by the defendant is not correct. Therefore, witness i.e. chief officer or officer of Nagar Parishad Umred needs to be examined to prove such document. Therefore, it is requested to permit the plaintiffs to lead such additional evidence.

2] Defendant has opposed this application by submitting reply vide Exh. 129. It is submitted that defendant has already proved by evidence that loan amount of defendant and Smt. Vimalbai was already repaid. Document Exh. 101 issued by Nagar Parishad on 31-03-2015 is on record. It was open for the cross examination by the plaintiff. However, plaintiff side has failed to do so. Plaintiff witnesses have been cross examined with reference document Exh. 98 and 99. Now the matter is fixed for the final argument. This application is filed at belated stage to fill up the lacunae. Any such attempt at this stage is not justified. Only the Hon'ble High Court can permit to adduce additional evidence at such belated stage. Suit was initially filed in the year 2014. After its transfer to this court, it bears the number of the year 2017. Therefore, it is requested to reject the application with cost.

3] I have heard oral arguments of Ld. Adv. Shri Bhisikar for plaintiff and Ld. Adv Shri Pimpalkar for defendant. Their arguments were on the line of the application and say. Shri. Bhisikar has relied upon the ruling – **Ramchandra Sakharam Mahajan Vs Damodar Trimbak Tanksale AIR 2007 S.C. 2577**. It was the suit for declaration of title, recovery of possession and injunction. Counter claim was filed by the defendants. Trial Court dismissed suit and counter claim also. Appeal was also dismissed. It was argued before the Hon'ble Supreme Court that plaintiff applied for amendment of plaint and also sought for permission to adduce some evidence in the form of document of lease deed. However, Trial Court rejected such applications. It was argued that Trial Court was wrong in doing so. In the facts and circumstances of that matter, Hon'ble Supreme Court observed that amendment sought for was necessary for determination of real question in controversy and the document which was sought to be produced, was also necessary for effective decision of that matter. Therefore, Hon'ble Supreme Court remanded the suit for fresh trial, by having allowed the amendment and having given opportunity to the plaintiff to lead evidence to produce and prove such document.

4] Question before me is – whether permission as sought for, can be granted at this stage ?

5] Record shows that suit is for specific performance of agreement of sale. Late defendant filed W.S. It is contended in the WS that such agreement was cancelled. Defendant deposited earnest amount along with interest. However, plaintiff society has misused such amount and has deposited such amount in the loan accounts of defendant and his wife Smt. Vimal. In fact such amount was not intended to be deposited in such loan account and it was towards the payment of earnest amount. Questions to that effect were put to PW-1 Shri Arvind Hajari. He denied those suggestions. PW-2 Abhay Khanorkar, the manager of plaintiff society is examined to show that above amount was deposited towards the payment in the loan accounts. He denied the suggestions that such amount was deposited towards the payment of earnest amount. Thus, it does not appear that present application is filed to nullify the evidence on record on that point.

6] Exh. 98 and 99 are the extracts of home loan. Exh. 101 is the letter

issued by CO of Nagar Parishad to late defendant Arun. By that letter late defendant Arun was informed that his revised proposal of date 30-09-2014 could not be returned to him on the ground that he informed the said authority by letter dated 23-12-2014 that he wanted to withdraw it.

7] Photocopy of one letter dated 22-05-2019 is at Sr. No. 1 vide list Exh.131. It is alleged that late defendant Arun submitted such application / letter before Nagar Parishad requesting it to remove the charge of plaintiff society loan on his plot No. 105 on the ground that such loan amount had already been repaid by him. DW-1 Smt. Vimal has not admitted such copy in her cross examination. Plaintiffs want to bring it on record by way of leading evidence. However, their evidence was already closed and suit is at the stage of further evidence of defendant. It is in this background, this application is filed. It is not the case that defendant has closed her evidence. Considering the contention in the written statement as narrated above and the nature of the document which the plaintiffs intend to bring on record by way evidence, it appears to me that such evidence is relevant. It is submitted that plaintiffs have come to know about this document under RTI after their evidence is over. Contents of this application have been solemnly affirmed by PW-2. Therefore, for the above reasons, I come to the conclusion that permission can be given to the plaintiffs to lead the additional evidence as prayed. Defendant will certainly get opportunity to controvert such evidence first by exercising right of cross examination and thereafter by availing of opportunity to lead further evidence, in continuation of her earlier evidence. Therefore, I proceed to pass following order.

### ORDER

1. Permission is granted to the plaintiffs to lead additional evidence as prayed for.
2. The application is accordingly allowed.

Umred.  
Dated: 15/11/2025.

[ S. G. Landge ]  
Civil Judge Sr. Dn., Umred,  
Dist. Nagpur.

Certificate

I affirm that the contents of this P.D.F. file are word to word same as per original.

Name of Stenographer : Mrs. D.T. Vighne  
Stenographer (Grade II)