



ORDER BELOW EXH. 115 in RCS No. 17/2011
(Yogesh and ors V/s. Damodhar and ors)

01. This application is filed by defendant No. 2 to 4 for examination of witness namely Waman Namdeo Wakale through Court commissioner by submitting that due to old age, he is unable to wak and stand property.

02. The plaintiffs filed their say and objected this application by submitting that defendants are filed this application to prove the alleged Vatnipatra but it being transfer deed, it is required to be registered. But it is an unregistered document. Hence, no purpose will suffice by examination said witness.

03. Heard both sides. Perused the record. Studied Order 18 Rule 04 of CPC. Order 18 Rule 04 of CPC permits to appoint Court commissioner for examination of witness. The evidence affidavit of defendants' witness Waman Namdeo Wakale is on record. His age is of 89 years. Considering his age and physical condition of witness, it needs to appoint the Court commissioner.

04. So far as objection of plaintiff to alleged Vatanipatra is concerned, it is required to be recorded by Court commissioner during evidence of witness and then it is required


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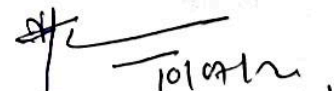
to be referred to this Court as per proviso of Order 18 Rule 4(4) of CPC for decision. Therefore, it will not proper to refuse the permission to defendant in anticipation. The plaintiffs have every right to raise objection to alleged document during evidence of witness. Therefore, no prejudice will cause to them. In result, this application is liable to be allowed. Hence, following order is passed.

ORDER

- (1) The application is allowed.
- (2) Adv. Manju Ghatole, who is suggested by Ld. Advocate for both parties, is appointed as Court commissioner for recording of further chief and cross-examination of the witness namely Waman Namdeo Wakale.
- (3) Defendant Nos. 2 to 4 shall pay Rs. 2000/- as commissioner fees to Court Commissioner.
- (4) Both parties parties and their Advocate shall remain present on 09/08/2025 at about 11.00 am for recording of evidence of Waman Namdeo Wakale at his residence i.e. at Navin Gumgaon Tq. Hingna Dist. Nagpur. And shall cooperate the Court Commissioner.
- (5) Defendant Nos. 2 to 4 shall also pay the charges of concerned clerk, who will carry the record of case and write down the evidence.
- (6) The parties shall take of note of this order.

Rs. 1501/- Paid
g. No. 30/25
Dt. 10/07/25.


Date: 10/07/2025
10/07/25


(V. H. Khedkar)
(CJD, Hingna.)