

Order Below Exh.85

The present application is filed by defendants No. 1. The defendant contends that in the present suit Babu Jayram Jadhav is impleaded as defendant No. 2. He has filed his W.S. at Exh. 20 denying the contentions of the plaintiff in toto. However, the plaintiff has filed evidence affidavit of defendant No. 2 as plaintiff witness at Exh. 84. As per the provisions of law plaintiff cannot call defendant as his witness. Hence, permission be denied to the plaintiff to examine defendant No.2 Babu Jayram Jadhav as a plaintiff witness.

2. The plaintiff filed his say below the application and submitted that defendant No. 2 is illeterate. His signature has been fraudantly obtained on W.S. and on the sale-deed. Hence, defendant No. 2 wants to give his evidence before the court to bring the true facts before the court. Hence, the present application be rejected.

3. Ld. Adv. For the defendant Shri. D.N. Sonawane argued that defendant no. 2 is a contensing defendant. Defendant No. 2 has filed his written statement. Now by filing evidence affidavit he is contradicting his own contetions made in his written statement. Hence, defendant No. 2 shall not be permitted to give evidence as plaintiff witness. Hence, the present application be allowed. Per contra ld. Adv. For the plaintiff Shri. N.P. Chandratre argued that plaintiff is at liberty to examine defendant as his witness. Hence, present application be rejected.

4. Perused the application and say heard ld. Advocate for the plaintiff and ld. Advocate for the defendant. The defendant has filed present application to deny the permission to the plaintiff to examine defendant No. 2 as plaintiff witness. However, it is the contention of the plaintiff that signature of defendant No. 2 was obtained fraudantly. Hence, he wants to bring this fact

before the court. As per the provisions of Code of Civil Procedure, party can examine any person as a witness. In Civil Procedure Code, there is no express bar to prohibit the party from calling opposite party as his witness. If, plaintiff examines defendant No. 2 as his witness, defendant No. 1 will have sufficient opportunity to conduct his cross-examination. Hence, no prejudice will be caused to defendant No. 1 if plaintiff examines defendant No. 2 as his witness. In the light of the above discussion, I pass the following order -

O R D E R

1. The application (Exh.85) is rejected.

Date : 11.1.2022
Place : Kalwan

Sd/-
(A. C. Joshi)
Jt. Civil Judge J. D., Kalwan