

MHOS130002032010



R.C.S.No. 49/2010
Krushna/Ankush

Order Below Exh.57

Application is moved by plaintiffs for setting aside evidence closed order passed against them below Exh.1 dated 10.12.2019. To this application, defendants have filed their say below same exhibit and strongly objected the application.

2. By way of this application, plaintiffs submitted that evidence closed order was passed below Exh.1 against them on 10.12.2019. Due to illness of plaintiff's witness they could not file evidence within stipulated time. The evidence closed order came to be passed on 10.12.2019. By way of this application plaintiffs prayed for permission to lead additional evidence to decide the suit on merit.

3. Defendants submitted that application filed by plaintiffs to intentionally delayed the proceeding of suit. Plaintiffs have examined their witness below Exh.34 on dated 12.09.2018. After despite of ample opportunities were given to the plaintiffs for evidence then after their evidence came to be closed. Therefore, application may kindly be rejected. If allowed heavy costs be imposed.

4. I have heard learned advocates for respective parties at considerable length. Learned advocate for plaintiffs submitted that evidence closed order was passed against them on 10.12.2019. Due

to illness of plaintiff's witness they could not file evidence within stipulated time. Therefore, opportunity by way of this application may kindly be given to plaintiffs. Learned advocate for defendants submitted that plaintiffs intentionally delayed the proceeding of suit. Hence, application may kindly be rejected.

5. On perusal of record it appeared that suit is instituted for partition and possession. By way of present application plaintiffs desires to file additional evidence. In such circumstances, the evidence of plaintiff came to be closed on 10.12.2019 after despite of ample opportunities were given to plaintiffs. By way of this application plaintiffs submitted that on 10.12.2019 their witness was ill and evidence not adduced before the court. Per contra, defendants objected that opportunities were given to plaintiffs. Considering the nature of suit for partition and possession no purpose would be served by rejecting the present application because opportunity to lead evidence required to be given more over present application is supported by an affidavit. Contention made in the application about the illness of plaintiff's witness is considerable at this stage. Objection of defendants would be compensated in the terms of costs. Hence, application deserves to be allowed. I proceed to pass following order-

ORDER

1. Application Exh.57 is allowed subject to costs of Rs.300/-(Rs.Three hundred only)to defendants.
2. Plaintiffs are permitted to lead further evidence if any.

Date:- 01.03.2021

(K.K.Khomane)
Jt.Civil Judge J.D., Bhoom

C E R T I F I C A T E

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

Name of Stenographer	:-	M.K.Shinde
Court	:-	Jt.C.J.J.D., Bhoom, Dist. Osmanabad.
Date	:-	01.03.2021
Order signed by the Presiding officer on	:-	01.03.2021
Order uploaded on	:-	03.03.2021