

**ORDER BELOW EXH-36**

1. The plaintiff has made the present application under the provisions of section 151 of C.P.C.
2. Perused the application and say.
3. Heard the Ld. Adv. for the both the side. In brief, fact of the present application are as follows.
4. The plaintiff states that, he has the filed the present suit for recovery. He deals in the business of suppling agricultural seed, fertilizer, etc. & had employed one Dilawar Sayyed for maintaining account who used to maintain the account and write the bills. He states that, in order to prove the fact that, the defendant has purchased goods from him, the bill to that effect needs to be proved by examining Sayyed who has written the bill. The plaintiff states that during the course of his evidence, Dilawar Sayyed had left his job and was working out of station and as such the plaintiff could not record his evidence. However recently Dilawar Sayyad met the plaintiff and his ready to give evidence. The plaintiff therefore states that in order to prove the bill it is necessary to examine Dilawar Sayyad and therefore prays that, the present application be allowed.
5. As against this, the defendant by filing his say has denied contention made the application. The sum & substance of his say is that, the plaintiff cannot be allowed to introduce new evidence when the trial is

at its fag end. He further states that, the present application is not maintainable and therefore prays to the reject the same.

**6.** Having considered the submissions made on behalf of both the parties and or perusal of record it appears that the suit is at its fag end was posted for final argument. The plaintiff had putforth the present application on the ground that he wants to examine Dilawar Sayyed in order to get the document i.e. the bill proved. Admittedly the document which he seeks to prove has been placed on record since the filing of the suit & as such the defendant was aware of the said document.

**8.** So for as calling Dilawar Sayyed to prove the document is concerned, it has been specially stated by plaintiff that, during his evidence Dilawar Sayyed was not working in his shop and was working out of station and consequently the evidence of Dilawar Sayyed could not come on record. If therefore can be said that, during the course of evidence of plaintiff he was unable to produce Dilawar Sayyed as he was unavailable. As such, when the document in relation to which evidence is sought be to taken on record was already been place on record by the plaintiff at a very earlier stage there is no hurdle in examining Dilawar Sayyed to that effect only. No new evidence is sought to be placed on record by the plaintiff but rather he is trying to bring in evidence the document which has already being placed on record.

**10.** Allowing the application would meet the ends of justice. Needless to mention that, the defendant would been having opportunity to

cross-examine the plaintiff witness. Hence taking into consideration the above things. I proceed to pass the following order.

**ORDER**

1. Application is allowed.
2. The plaintiff is permitted to examine Dilawar Sayyed only to the extent of proving the document.

Daund  
Date:-26/06/2018

**(S.D.Awasekar)**  
Jt.Civil Judge Junior Division  
Daund

## CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment is same word for word as per original Judgment.

|                       |                                       |
|-----------------------|---------------------------------------|
| Name of Steno         | : T.R.Bagwan                          |
| Court Name            | : S.D.Awasekar                        |
|                       | : Civil Judge Junior Division, Daund. |
| Date of Judgment      | : 26.06.2018                          |
| Judg. signed by P. O. | : 26.06.2018                          |
| Uploaded on           | : 26.06.2018                          |