

Order below Exh. 36 in Civil M.A. No. 01/2020
(CNR No. MHRT080000102020)

By the present application, the applicant has prayed for issuing witness summons to the tree officer.

02. For the purpose of present application, it may be briefly noted that as per pursis at Exh. 29 filed on 18/03/2024, the applicant has closed his evidence. Thereafter, as per pursis at Exh. 30, the respondent has closed his evidence on 14/06/2024. The matter was then posted for arguments. On 28/06/2024, applicant sought adjournment to argue the matter. The matter was then adjourned to 11/07/2024. On that day, the applicant has produced three documents as per list at Exh. 33. Those documents were produced as permitted vide order below Exh. 32. Application at Exh. 32 was one for leave to produce the documents. Said application was allowed by this Court by observing as follows in paragraph No. 07 of the order -

“07. The cross-examination of the applicant as conducted on behalf of non-applicant discloses that the parties were aware of the documents which are now sought to be produced. Considering this aspect and nature of documents, the application deserves to be allowed. However, costs need to be imposed on the applicant. Moreover, a liberty need to be granted to the non-applicant to make the appropriate application for recalling the applicant for his further cross-examination, if so advised, in relation to the documents now produced.”

03. Thereafter, on 16/08/2024, the applicant gave notice to the respondent to know as to whether he admits the document at Exh. 33/01. The non-applicant has filed reply and denied the document.

Thus, this Court has granted liberty to prove the document as per law, if so advised.

04. By the present application, it is prayed that to prove said document produced as per Sr. No. 01 of the list at Exh. 33, summons be issued to the Tree Officer. I have perused the document. It is copy of a notice issued by the Tree Officer. The notice was addressed to the non-applicant to intimate him about the order passed by the said officer. Copy of said notice was sent to the present applicant. To establish and prove said document, present application is made.

05. It is noteworthy that the application is made belatedly after closing evidence.

06. Perused the record. Heard both sides.

07. Learned advocate for the applicant, Smt. P. C. Chavan, has submitted that considering nature of the document, the application deserves to be allowed.

08. Learned advocate for the respondent, Mr. C. M. Mangale, has submitted that the application is made after closing evidence of the parties. It is not tenable. Thus, it is liable to be rejected.

09. It is pertinent to note that, if examination of a witness is found necessary for just decision of the suit or matter, the application made in that regard cannot be rejected only on ground of delay. It is so because the object of trial is to reach the truth. That can be done if the parties are allowed and afforded every reasonable opportunity to adduce evidence. This Court has already observed in paragraph No. 07 of order below Exh. 32 that considering cross-examination of the applicant, it is clear that the parties are aware about the said document. Being so, if an opportunity is granted to the applicant to

establish the proposed document, the non-applicant would not be taken by surprise. Being so, the application can be allowed in the interest of justice. Hence, I pass following order -

ORDER

1. The application is allowed.
2. Issue witness summons, as prayed.

Date :-10/02/2025

(B. D. Tare)
Civil Judge (J.D.), Deorukh.

- : C E R T I F I C A T E : -

I affirm that the contents of this Pdf file order are same words as per original order.

Name of Stenographer	:- S. A. Bhale
Court Name	:- The Court of Civil Judge (J.D.) & Judicial Magistrate F.C., Deorukh
Date of decision	:- 10/02/2025
Order signed by PO. on	:- 10/02/2025
Order uploaded on	:- 12/02/2025