

Order below Exh.72 in RCS 96/2016
Vithal Vs Pandurang & Ors

The application is seeking to exhibit the notice issued by the plaintiff to the defendant produced below Exh.3/Sr.No.4.

2 Perused the application, say, and the record.

3 Heard both the sides.

4 The suit is in final phase of disposal i.e. final arguments.

5 The application is premised on the ground that due to inadvertance the above notice could not be exhibited.

6 The application is opposed on the ground that the document cannot be exhibited. The application is misconceived.

7 As a matter of fact and record, the affidavit in lieu of examination-in-chief of the plaintiff was filed on 01/10/2024. The same mentions the fact of issuance of the notice. The further examination-in-chief was recorded on 12/03/2025. A single document was exhibited. The witness was cross examined. The matter travelled through various stages i.e. after the evidence of the defendants the plaintiff was permitted to lead expert evidence and other witnesses. Though there is a mention of the notice in the affidavit in lieu of examination-in-chief the fact remains the fact of issuance of notice is admitted to the defendants however that does not mean that the contents in the notice are admitted. There is no law that non reply to the notice is an admission. The contents can be proved during examination-in-chief for re-examination. The application sans merit. Hence, the following

Order

The application stands rejected.

Jath
Date:- 08/07/2026

(Sanjay P. Bunde)
Jt C.J.J.D. Jath