

**Order Below Exh.70.**  
**(Passed on 17.07.2019)**

The plaintiff filed present application to set-aside the 'evidence close' order passed against him.

2. Present suit is for permanent injunction. It is the contention of the plaintiff that present suit is fixed for recording of evidence and the plaintiff filed his examination-in-chief. But, due to illness, on 10.01.2019 he could not appear before the court. Hence, on that day 'evidence close' order passed against him. It is further contention of the plaintiff if said order is not set-aside, then irreparable loss will be caused to him. Hence, he prayed for set-aside 'evidence close' order passed against him.

3. Learned counsel for defendant nos.1 to 7 filed his say at Exh.73. It is the contention of above defendants the court has passed 'evidence close' order against the plaintiff. The plaintiff failed to pay cost amount, previously imposed against him. Defendants have filed affidavit of examination-in-chief on their behalf. Even though, the court come to allow the application, heavy cost may be imposed to them.

4. Perused the application, say and record. Heard the learned counsel for defendants and the plaintiff.

5. The record reveals that the affidavit of evidence is filed on record and 'evidence close' order is passed on 10.01.2019 against plaintiff. Present application is filed on

record on 12.03.2019. The said application is supported with affidavit.

6. On perusal or record, it reveals that the suit is for permanent injunction. No doubt, there is a delay of 2 months and 2 days to file this application. But, the said delay can be taken into consideration by imposing the cost. To decide the matter on merit, the evidence of both parties on record is essential. The plaintiff is ready to give evidence. It is important to mention here that oral evidence is important to prove the case as per pleadings in support of documents. Considering all above facts, in the interest of justice, application deserves to be allowed. Hence, I pass the following order.

### **ORDER**

1. The application is hereby allowed subject to cost of Rs.150/- (Rupees one hundred fifty only).
2. Out of cost amount Rs.50/- (Rupees fifty only) be paid to the Legal Aid Committee, Shirala and Rs.100/- (Rupees one hundred only) be paid to the defendants jointly, till next date. Otherwise, previous order of 'evidence close' will be in force.

Date- 17.07.2019  
Shirala.

(B.M. Kale)  
Civil Judge (J.D.), Shirala.

### **CERTIFICATE**

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

Name of Steno	:	S.N. Pethkar (Steno. Grade-3)
Court Name	:	C.J.J.D. & J.M.F.C., Shirala.
Date	:	17.07.2019.
Signed by Presiding Officer on	:	17.07.2019.
Uploaded on	:	18.07.2019.