

Dhanaji Maruti Kadam ..... Plaintiff

Versus

1. Maruti Dattatraya Kadam ..... Defendants

**ORDER BELOW EXHIBIT 40**

1. The plaintiff has moved the application vide exhibit 40 for setting aside evidence closed order. The plaintiff has stated that, he was not well. Hence, court has passed order below exhibit 1 and closed evidence of plaintiff. The plaintiff must get the opportunity to put forth his case, otherwise he will suffer irreparable loss. Hence, order passed below exhibit 1 on 19-11-2025 stating that, 'evidence of plaintiff is closed', is to be set aside.

2. The defendants have filed say and raised strong objection. It is stated that, application is false and vexatious. There is no sufficient reason. Hence, application is to be rejected.

3. I have perused application vide exhibit 40. I have heard both sides at length. The following points arise for my determination.

<b>Serial number</b>	<b>Points</b>	<b>Findings</b>
1	Does plaintiff entitle for setting aside, 'evidence closed order' passed below exhibit 1 ?	Yes
2	What is order ?	The application is allowed.

### **Reasons**

4. The present suit is for partition. The nature of suit is such that, if the opportunity to lead evidence is denied to the plaintiff, then it will affect the merit of case. It may result into multiplicity of proceeding. 'Audi alteram partem' is principle of natural justice. It means that, no one shall be condemned unheard. Hence, it is just and proper to give opportunity to the plaintiff to lead evidence. The defendants have filed say and raised strong objection. The plaintiff has stated that, he was ill. The reasons stated by the plaintiff for setting aside order is sufficient. The plaintiff has not avoided to lead evidence. The circumstances were beyond the control of plaintiff. Hence, it will not be proper to saddle the cost on shoulder of the plaintiff, after considering the circumstances. Therefore, the present application is allowed. In the result, the following order is passed.

### **ORDER**

1. The application vide exhibit 40 is allowed.
2. The order passed against the plaintiff vide Exhibit 01 stating that, 'evidence of plaintiff is closed', is hereby set aside. The plaintiff is to lead further evidence, if any. The suit shall proceed further according to provisions of law.

Pandharpur  
Date – 13-03-2026.

**Smt. K. A. Katkar**  
3<sup>rd</sup> Joint C. J. J. D, Pandharpur.

**: CERTIFICATE :**

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

Case No.	:	RCS 212/2023
Name of Stenographer	:	S. P. Doke
Court Name	:	3 <sup>rd</sup> Joint Civil Judge Junior Division Pandharpur, Dist-Solapur.
Date of Decision	:	13-03-2026
Order signed by P.O. on	:	13-03-2026
Order uploaded on	:	13-03-2026