

ORDER BELOW EXH. 175

The said application is filed by defendant No.6 for grant of permission to lead further evidence by setting aside no evidence order dtd.07/08/2025 passed against him.

2] Read application and say filed by defendant Nos.1 to 5, 7 and 8 at Exh.177. The plaintiff did not file say to this application despite of sufficient opportunity. The matter is old. Hence, today I have taken the said application for order without say of the plaintiff. Heard Ld. advocate Shri.S.S.Pisal appearing for defendant No.6 and Ld. advocate Shri.R.S. Waghmode appearing for defendant Nos. 1 to 5, 7 and 8.

3] It is the submission of defendant No.6 that he wants to file evidence in his side. But, his witness was not feeling well and he was out of station. Therefore, he could not file evidence of his witness on record. Resultantly, on 07/08/2025 the Court passed order and closed his evidence.

4] It is the submission of Ld. advocate Shri.R.S. Waghmode appearing for defendant Nos. 1 to 5, 7 and 8 that the reason is not genuine one. On 04/07/2022 cross-examination of defendant No.6's witness is over. Since then, the matter was posted for further evidence of defendant No.6. However, defendant No.6 did not adduce further evidence till 07/08/2025. Hence, the Court has closed his evidence.

5] The suit is instituted for partition and separate possession. It appears that despite of sufficient opportunity, defendant No.6 did not

adduce any evidence till 07/08/2025. Therefore, the Court has passed an order and closed the evidence of defendant No.6. Now, defendant No.6 is willing to contest the suit by adducing further evidence. Hence, considering the nature of the suit and in the interest of justice, it would be proper to grant one opportunity to defendant No.6. However, suit is old. The defendant No.6 was not diligent to proceed with the suit. Hence, it is necessary to saddle some costs upon the defendant No.6 to deter him from taking adjournments. Hence, I pass following order.

ORDER

- 1] The Application is allowed.
- 2] The evidence close order passed on 07/08/2025 is hereby set aside on the costs of Rs.1000/-.
- 3] Defendant No.6 is permitted to adduce further evidence after payment of costs.
- 4] The suit is too old, therefore, both the parties are directed to proceed with the suit diligently and not to seek any adjournment except, exceptional circumstances.

Date : 30/09/2025

(U. B. Pethe)
Jt. Civil Judge Junior Division,
Malshiras