

**ORDER BELOW EXH.40**

This is an application on behalf of the plaintiff for setting aside evidence close order dated 02/03/2024. It has submitted that the plaintiff could not remain present when the suit was called on for hearing as her husband had died and she was in sorrow.

02] The defendant did not file say.

03] Record goes to show that the suit is for partition of landed properties. As such, right to immovable properties is involved. The defendant did not dispute the reason of non-appearance of the plaintiff. Law prefers decision on merit than on technicalities. In convenience caused to the other side can be compensated by imposing certain costs on the plaintiff. Hence, order.

**ORDER**

1. The evidence close order below Exh. 1 dated 02/03/2024 is hereby set aside, subject to costs of Rs.1,000/- payable to the defendants.
2. The plaintiff to expedite the suit.

Date : 17/04/2025

**(Y.S.Akhare)**  
Jt. Civil Judge, J.D., Madha.