

MH50220008752023



**ORDER BELOW EXH.415 IN Spl.C.S.No.01 of 2023**  
**(Bansi Ghadge Vs. Prabhakar Kulkarni etc.)**

By way of the present application, defendant No.15 seeks to recall witness Bhanudas. It is submitted that the cross-examination of defendant No.15 has already been completed. During his evidence, the disputed sale deeds bearing Nos.210/2007, 1861/2012 and 4702/2011 were produced on record. Out of these, sale deeds bearing Nos. 210/2007 and 1861/2012 were filed in original, whereas the sale deed bearing No.4702/2011 was filed in the form of a certified copy. It is contended that due to inadvertence, the contents of the said sale deed were not proved through defendant No.15. The said document, according to him, is necessary to be admitted and proved for the purpose of supporting his assertions. It is further submitted that if permission is not granted, defendant No.15 would suffer irreparable loss. Hence, it is prayed that defendant No.15 be permitted to be recalled for the purpose of proving the contents of sale deeds bearing Nos. 210/2007 , 1861/2012 , and 4702/2011 .

2] On the other hand, the plaintiff has strongly opposed the application. It is contended that defendant No.15 is attempting to fill up lacuna in his evidence by recalling the witness. It is further submitted that the plaintiff has already admitted the sale deeds of the years 2011 and 2012, and the same are duly exhibited. Therefore, there is no necessity to recall the witness. Alternatively, it is prayed that

if this Court is of the view that an opportunity is required to be granted to defendant No.15, heavy costs of Rs.10,000/- be imposed upon him.

3] I have minutely perused the record. It appears that the sale deed bearing No.210/2007 dated 11.01.2007, is already exhibited as it has been admitted by the plaintiff, as per Exh.407. Similarly, the sale deed bearing No.1861/2012 has also been admitted by the plaintiff through Exh.407. Once the plaintiff has admitted these documents, the same can be read in evidence. Therefore, the grievance of defendant No.15 that the sale deeds bearing Nos. 210/2007 and 1861/2012 are not exhibited and cannot be read in evidence is not tenable.

4] As regards the sale deed bearing No. 4702/2011 dated 13.12.2011, filed by defendant No.15, a perusal of the amended plaint clearly reveals that in prayer clause 'B', the plaintiff has specifically sought cancellation of and a declaration that the said sale deed dated 13.12.2011 is not binding. This clearly indicates that the plaintiff has sought relief pertaining to the sale deed bearing No. 4702/2011 dated 13.12.2011.

5] It is evident that the two sale deeds filed in original are already on record and have been admitted by the plaintiff. So, there is no dispute regarding the same. As regards proving the sale deed dated 13.12.2011, there are various other modes available in law. Hence, the plaintiff cannot be compelled to permit recall of defendant No.15 to prove the aforesaid sale deeds. Defendant No.15 had ample opportunity to prove the documents to the extent required but failed to do so. Mere submission that the contents of certain documents were inadvertently not proved is not a sufficient ground to recall the witness

for that purpose.

6] As per Order 18 Rule 17 of the Code of Civil Procedure empowers the Court, at any stage, to recall a previously examined witness to clarify ambiguities, but not for parties to fill gaps or conduct further examination or cross-examination. Its a court's discretionary power for justice, not a party's right, exercised cautiously to avoid delaying tactics. In the instant matter fully opportunity given to defendant No.15 to prove document whichever he wants but failed to comply diligently. In such situation, seeking another opportunity to fulfill gaps whatever remains after his cross examination. Law cannot permit to do so and fill lacuna as per his wish. The application is devoid of merit. In view of the above facts and circumstances, I am inclined to pass the following order.

ORDER

1. Application is hereby rejected.
2. Costs in cause.

Place : Karmala  
Date : 02.01.2026

( S.M.Ghuge )  
Civil Judge, Senior Division,  
Karmala, Dist.Solapur