

ORDER BELOW EXH. 81 IN R.C.S.NO. 142 OF 2012
Gunvant Hari Ydav & Ors. Vs. Sahebrao Karande & Ors.
CNR NO. MHST050001942012

This is an application filed by plaintiffs to set aside “Evidence Discard order” passed against them on 09.02.2026. Application is supported with affidavit. Defendants strongly resisted the application by filing say on the application itself.

2. Heard. Perused record.

3. The suit is instituted for declaration, preemption and injunction in the year 2012. It is part heard. Issues were framed on 04.01.2016. Evidence affidavit of plaintiffs was filed on 16.10.2018. On 19.12.2023 matter was deferred for further cross-examination. Matter was pending for cross-examination of plaintiff.

4. On 01.07.2025 adjournment application was filed for the reason plaintiff has undergone knee replacement surgery. To decide matter on merit said application was granted as a last chance. In spite of this order, till 09.02.2026 adjournment applications were filed on the record for the same reason. If due to surgery plaintiff is unable to present in the Court then they have remedy in the Civil Procedure Code. Instead of that, repeatedly adjournment applications were filed on record without any documentary evidence.

5. Today, medical certificate is produced on the record. As per the certificate, plaintiff was discharged on 04.08.2025. There is almost 8 months delay. Matter is pending from 2012. To decide

matter on merit one last opportunity should be granted to plaintiffs. Delay cannot be ground for rejection. It can be compensated in terms of money. Therefore, the technicalities of the procedure should not come in the way of Court to deliver justice. Hence, defendants are entitled for the cost. Therefore, to decide matter on merit, present application is deserve to be allowed but obviously on the cost. Present matter is listed in the Action Plan. The Hon'ble High Court has directed to dispose of old matters as early as possible in view of directions issued by The Hon'ble Supreme Court under 4th and 5th Phase of Action Plan. In view of directions of The Hon'ble High Court and to dispose of matter within time frame, plaintiffs are directed to pay the amount of cost within 3 days or on next date. Therefore, I pass the following order.

ORDER

1. Application is allowed.
2. Evidence Discard order dated 09.02.2026 passed against plaintiffs is hereby set aside subject to payment of cost of Rs.2,100/- (Rs. Two Thousand One Hundred only) payable to the defendants.
3. If amount of the cost is not paid within 3 days or on next date then suit will be dismissed.

Place : Karad
Date : 23.02.2026

(J.J.Mane)
4th Jt. Civil Judge Sr. Dn., Karad.