



R.C.S. No. 40/ 2016

Dattatray Pampattiwar -Vs- Grampanchayat
Khapri & Ors.

CNR No. MHYA-1800-1020-2016

ORDER BELOW EXH 53

1. The present application is filed by plaintiff to reopen his evidence and to issue witness summons to Deputy Superintendent of Land Record, Ghatanji. It is his contention that the present suit is filed for declaration and permanent injunction. He has examined two witnesses out of which Shrikant Meher proved suit map which at Exh. 47. But, defendants denied the same. Defendants did not entered into witness box nor they have examined any witness. The plaintiff has filed certified copies of Khapri Goanthan Map on record. It is prepared by land record office. It is necessary to prove said map for merit of the case. Therefore, in order to prove said map it is necessary to reopen the evidence of plaintiff. Hence, the application.

2. Defendants by filing their say on overleaf of the application objected the present application. They contended that plaintiff himself closed his evidence by filing pursis at Exh. 48. So also evidence of defendants is closed by passing order below Exh. 01 on 02/01/2025. The defendants have no authorised information of documents filed by plaintiff. The present application is filed only to fill-up the lacuna. The present application is filed at belated stage. Hence, they prayed to reject the application.

3. I have heard both the parties. They have advanced their arguments as per their contentions. Therefore, to avoid repetition they have not mentioned here. Perused documents on record. It is seen that the evidence of plaintiff is closed by pursis at Exh. 48 filed by plaintiff. It is also seen that despite sufficient opportunities defendants have failed to lead their oral evidence. Therefore, as per order below Exh. 01 dated 02/01/2025 evidence of defendants is closed.

4. While the case is put up for arguments, the plaintiff has filed documents while Exh. 52. It is seen from those documents that map at serial no. 01 of Exh. 52 is gaonthan map of village Khapri. It is also seen from the record that as per Exh. 27 plaintiff has given notice to defendants to submit that map in the Court. It is also seen from Exh. 30/1 that as per letter defendants replied that they are ready to file the same after completion of survey and after receiving of those documents. But, till today they have not produced any such documents. It is also seen that defendants have not entered into the witness box. Therefore, to prove the said survey map it is necessary to give fair chance to the plaintiff. If the application is allowed no prejudice will cause to the defendants. On the other hand, it is the duty of defendants being local government authority, to file all related documents on record and to help the Court to reach just decision. But, defendants have failed to do so. Therefore, if the present application is allowed it will help the Court to reach the just decision and to decide the matter on merits. Hence, in the interest of justice, application needs to be allowed. But, while doing so, it is also necessary to consider the fact that plaintiff could have filed this map before closing of his evidence.

Therefore, considering the same, the present application needs to be allowed subject to payment of costs payable to Government. Hence, the following order.

Order

1. Application is allowed subject to costs of Rs. 500/- payable to Government.
2. The evidence of plaintiff is opened again.
3. Plaintiff is directed to pay Witness Bhatta today itself. On payment of Witness Bhatta, issue witness summons to Deputy Superintendent of land record Ghatanji.

Date:- 10/04/2025.

Place:- Ghatanji.

(A.A.Kalamkar)

CJJD & J.M.F.C, Ghatanji