

MHYA210007162021



ORDER BELOW EXH.No.35

(Passed on 06/02/2026)

01] The present application is filed by the non-applicant to recall the applicant for further cross-examination. The non-applicant contended that, the sister of applicant namely Sunita filed Civil Suit bearing R.C.S. No. 05/2018 for partition and possession. In that suit, the applicant is defendant No.5. The said suit is pending for before this Court. The non-applicant filed copy of plaint and Written Statement filed in the said suit. Further, the applicant had filed application bearing Cri.M.A. No.09/2017 under Section 12 of the Domestic Violence Act against the non-applicant. In the said application, the applicant made false statement about her marital status. Further, she suppressed the fact of decree of divorce granted by the Court. The said application was rejected on merit. The non-applicant wants to cross-examine the applicant on above stated facts. The further cross-examination of the applicant is necessary to decide the present matter on merit. Lastly, he prayed to allow the application.

02] The applicant filed reply and strongly opposed the application. She contended that the matter is for final argument. Therefore, the present application is not tenable. Lastly, she prayed to reject the application.

03] Heard, both the Ld. Advocates of the non-applicant and applicant. They submitted as per the contentions of application and reply.

04] Perused the record. It appears that, the present matter is for final argument. The non-applicant filed notice to admit the documents i.e. Plaint and Written Statement filed in R.C.S. No.05/2018, Sunita Vs. Ashok and Ors. vide Exh.32. However, the applicant denied to admit the said documents. The said documents are filed on record. In the said suit, the applicant is defendant No.5. The same suit is filed by sister of the applicant against the applicant and her sisters and brothers for partition and possession. In the said suit, the applicant along with her brothers and sisters filed their Written Statement at Exh.22. The non-applicant also filed judgment of H.M.P. No.39/2008 filed by non-applicant against the applicant for decree of divorce under Section 13(1)(a) of the Hindu Marriage Act. As per the said judgment, the marriage of the applicant and non-applicant is dissolved. Further, the non-applicant also filed copy of appeal arising out of said judgment bearing Appeal No.31/2009 and order passed thereon.

5] On perusal of the cross-examination of the applicant, it appears that, the applicant denied the fact of filing of H.M.P, its order and appeal filed against said order. However, there is no cross-examination of the applicant in respect of Civil Suit bearing R.C.S. No.5/2018 and Written Statement filed therein. It appears that, the applicant is co-owner of the land bearing Gat No.53 situated at village Purad-Nerad, Tq.Wani, Dist.Yavatmal. The main application is for enhancement of the maintenance filed under Section 127 of Cr.P.C. Therefore, the cross-examination of the applicant is necessary to decide the facts relating to enhancement of the maintenance. Therefore, the application is liable to be allowed. Hence, considering

above findings, I pass following order;

ORDER

1. The application is allowed.
2. The applicant is directed to present on next date for further cross-examination.

Date 06/02/2026.

(Shahaji D. Bhosale)
Judicial Magistre (First Class),
Court No.1, Wani.

I, Abhay Pramod Bhoyar, Stenographer of Civil Judge (Jr.Dn.) & J.M.F.C. Wani affirm that, the contents of this PDF are same words for words, as per the original judgment.