

ORDER BELOW EXH.71 IN REGULAR CIVIL SUIT NO.44/2005

1. By this application plaintiff has sought to mark exhibit number newly to the evidence of her witness Smt. Jyotsna Jagannath Mor recorded before the remand of the present matter. It is contended that after remand the said witness has again been examined in chief by way of affidavit Exh.70 and in that evidence the witness has proved her earlier evidence Exh.47.

2. Application is resisted on behalf of defendants no. 2 to 7. It is contended that the earlier evidence of the said witness was given in the capacity as Tahashildar, Dahanu and now she has retired and given her evidence Exh.70 in her personal capacity. As such, according to them, the application is not maintainable and liable to be allowed as prayed for.

3. Perused the relevant record. Heard both sides.

4. The earlier evidence of plaintiff's witness Smt. Jyotsana Mor at Exh.47 though was given in the capacity as Tahashildar, Dahanu, it is proved in her subsequent evidence Exh.70 to be of her own evidence. It is obvious that after her retirement she would naturally depose in her personal capacity. Still, her earlier evidence can not be marked new exhibit number as prayed for. It is there on record and already marked as Exh.47. The cross examination of plaintiff's said witness Smt. Jyotsana Mor is yet to begin. In the circumstance, defendants no. 2 to 7 are at liberty to cross examine the said witness with reference to her earlier evidence Exh.47 also.

With this, the following order :-

ORDER

The application is filed and stands disposed of.

Palghar
Date : 15/02/2018

[B.G.Dharmadhikari]
Civil Judge S.D. Palghar