

CNR -MHCC04-000465-2018

**IN THE CITY CIVIL COURT AT MUMBAI, BORIVALI DIVISION,
DINDOSHI, GOREGAON, MUMBAI.**

**NOTICE OF MOTION NO.229 OF 2018
IN
S.C.SUIT NO.1722 OF 2013**

Dr. Jawahar Shah

.....Plaintiff

Versus

Mr. Sujeet Subhashchandra Katiyar

....Defendant

Adv. Tejasvi Ghag for plaintiff.

Adv. R. U. Singh for defendant.

**CORAM: HIS HONOUR JUDGE SHRI S. S. OZA
(Court Room No.2)**

DATE : 24th September, 2018

ORDR ORDER

1. This is the Notice of Motion taken by plaintiff for permission to file additional affidavit of examination-in-chief.
2. Read affidavit in support of Notice of Motion and affidavit in reply filed by defendant. Perused record.
3. Heard Ld. Counsels for plaintiff and defendant.
4. Plaintiff came with a case that his cross examination is completed

on 06.07.2017. The question was put to him in cross examination that he had not shown loan to the defendant in the income tax returns. He has contended that he has checked his old income tax record for the same and came across his Indian Income Tax Return Verification Form which was filed for the assessment year 2011-12. He has filed the said form on 30.07.2012. He further contended that form contains the Revised Computation of his total income from 01.04.2010 to 31.03.2011 for assessment year 2011-12 along with which he has enclosed income and expenditure Account and balance sheet as on 31.03.2011. Therefore, he prayed to allow additional affidavit of evidence.

5. However, perusal of record reveals that cross examination of plaintiff is completed long back on 06.07.2017. It is settled rule of law that permission to adduce evidence cannot be granted to fill up lacuna and/or omissions or to washout admissions given in the cross examination. However, as plaintiff's evidence is yet to complete, plaintiff is having liberty to examine the concern person of income tax department or income tax officer yet to prove the said income tax returns. Hence, in view of above discussion, I proceed to pass following order.

ORDER

1. Notice of Motion No.229/18 is dismissed.
2. No order as to costs.

Sd/-

(S. S. Oza)

Judge

Date :24/09/2018

City Civil & Sessions Court,
Borivali Div., Dindoshi, Mumbai.

Dictated on 24.09.2018
Transcribed on 27.09.2018
Signed on 27.09.2018

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL
SIGNED JUDGMENT/ORDER.”

UPLOAD DATE

AND TIME : 28/09/2018 10.45 a.m.

Mrs. T. S. Bhogte

NAME OF STENOGRAPHER

Name of the Judge (with Court Room No.)	HHJ Shri S. S. OZA (Court Room No.2)
Date of Pronouncement of Judgment/Order	24.09.2018
Judgment/Order signed by P.O. on	27.09.2018
Judgment/Order uploaded on	28.09.2018