

IN THE COURT OF SMALL CAUSES, AT MUMBAI

ORDER BELOW EXHIBIT NO.48

IN

R.A.D. SUIT NO. 1714 OF 2007

Mr. Anand Shankar Kanade 1(a). Lalita Anand Kanade & Ors.	. . Plaintiffs.
Versus	
M/s. Nazo Developers Pvt. Ltd.	. . Defendant.

Coram : S. B. Todkar,
Judge, C.R.No.22
Date : 18/07/2023.

ORAL ORDER :

This is an application filed by the plaintiff No.1(b) for permission him to file his affidavit of examination-in-chief on behalf of newly added plaintiffs.

2. Perused the application and handwritten say given by the defendant's advocate on the application overleaf. Heard learned advocate for both the sides.

3. As per the contents of present application, his deceased father had filed above suit for declaration of tenancy. Matter is kept for further cross examination of plaintiffs. His father expired on 13/08/2022. They being legal heirs of the deceased plaintiff brought on record by amending the plaint. His father had filed affidavit of examination-in-chief and cross examination was going on, but now due to his sudden death the cross-examination is incomplete. Being one of the legal heir of the deceased plaintiff and on behalf of newly added plaintiffs, plaintiff No.1(c) had filed application below Exh.47 for permission to file his affidavit of examination-in-chief, which was granted on 26/06/2023, but due to his new job he is unable to take leave and come and give evidence in the Court. Therefore, he may be

allowed to file his affidavit of examination-in-chief. Hence, the application for permission to file evidence.

4. It appears from the record that plaintiff has filed present suit against defendant for declaration on the grounds specifically mentioned in the plaint. Defendant has filed his written statement. My Ld. Predecessor framed Issues. Thereafter, original plaintiff had filed his affidavit of examination-in-chief and his cross-examination is not completed. Since then the matter is kept for further witness of the plaintiff. Meanwhile the original plaintiff has expired. His legal heirs are brought on record by amending the plaint. Considering the above facts and circumstances, nature of the suit, issues involved in the matter, real controversy between the parties, it is necessary to give both the parties fair and proper opportunity to prove their case or defence. Hence, in the interest of justice, I proceed to pass the following order.

ORDER

1. Application Exh.48 is allowed.
2. Permission is granted to the plaintiff No.1(b) to adduce his affidavit of examination-in-chief on record.

[S. B. Todkar]

Date : 18/07/2023.

Judge, Court of Small Causes, Mumbai.
[Court Room No.22].