

R.C.S. No.37/2020**Shaharam Namdeo Raut and Ors.****Vs.****District Collector, Ahmednagar and Ors.****ORDER BELOW EXH.74**

The defendant no. 2 and 3 have filed this application for setting aside “no-cross” orders passed below Exh.56 and Exh.69 on 04/01/2023 and 11/08/2023.

02. In support of the application, the defendants have submitted that, the no cross orders were passed against them as their counsel was unable to represent them and due to their official work they were not attending the present case. Their absence is not deliberate. The learned counsel for other defendants have proceeded with the cross examination of witnesses and due to their absence at the time of said cross-examination, the matter was proceeded further. They prayed for an opportunity to contest the proceedings in the interest of justice and prayed for allowing the application.

03. The plaintiffs opposed the application by contending that, these defendants have deliberately avoided to participate in the proceedings. There is no justification for the absence in the matter. Therefore, they prayed for imposition of heavy costs in the event of allowing the application.

04. Heard Learned Counsel for both the parties.

05. The defendant nos.2 and 3 are the government officials i.e. the Executive Officer of Zilha-Parishad and Block Development Officer of Panchayat-Samiti. The matter pertains to the removal of encroachment on the Government Property. Considering the nature of the suit, as well as the fact that, the injunction is sought against the official acts of Government Officers, they deserve an opportunity to contest the proceedings. Therefore, the application deserves to be allowed with a rider that, these defendants shall proceed with the suit diligently herein after. Consequently, I proceed to pass following order :-

ORDER

1. Application Exh.74 is allowed.
2. The 'no- cross' orders passed against defendant nos.2 and 3 are set aside.
3. Costs in cause.

Date: 09/12/2024

(R.B.Giri)
Civil Judge Sr. Division,
Shrirampur.