

**Order Below Exh. 49.**  
(Passed on 10<sup>th</sup> July, 2025)

1. In this suit defendant no. 01 has moved this application with a prayer to set aside the no-cross order passed against him below Exh. 01. Defendant no. 01 submitted that, due to medical reasons he could not cross-examine PW No. 1. Hence, no cross order was passed against him. But, now he is ready to cross-examine PW No. 1. Hence, in order to decide the matter on merit, the opportunity of cross-examination is necessary to be granted to him for final and conclusive adjudication of the matter. Defendant No. 01 further submitted that mistake happened by him is not intentional one but due to unavoidable reason. Defendant no. 01 finally submitted that considering the genuine reason and difficulty and to decide the matter on merit, no-cross order to the plaintiff's witness No. 1 passed against him may kindly be set-aside and opportunity need to be granted to defendant no. 01 to cross-examine plaintiff's witness No. 1 for the ends of justice.

2. Plaintiff, while opposing the instant application, submitted that no genuine reason has been cited in this application and it has been moved only to prolong the matter, hence, it is not tenable in the eyes of law and it is liable to be rejected.

3. Perused the application as well as Say filed thereon. Heard advocates of both the parties. It is a matter of record that defendant no. 01 and his advocate was totally negligent towards this matter. Record itself shows that even after granting several opportunities defendant no. 01 did not appear before the court. Record also shows

that defendant no. 01 remained dormant till the filing of this application. Though, these are the crystal clear facts before the court, the right of defendant no. 01 cannot be discarded and the fate of this matter cannot be decided just by considering the negligence of defendant No. 01 and his advocate. Civil suit involves property rights and several parties are involved in those property rights. The decision in a civil suit affects the generations to come. Therefore, I am of the considered view that the civil suit need to be decided on merit, that too, by granting thorough opportunities to both the parties. Hence, considering all these facts, I am of the view that one opportunity need to be granted to the defendant no. 01 to cross-examine plaintiff's witness. Therefore, considering all these aspects, I proceed to pass following order-

**ORDER**

- 1] Application below Exh. 49 is allowed.
- 2] No-cross order passed against defendant no. 01 in respect of plaintiff's witness No. 1 is hereby set-aside and defendant no. 01 is hereby permitted to cross-examine the plaintiff's witness No. 1.

Date: 10.07.2025.

**( Prasad B. Joshi )**  
5<sup>th</sup> Jt. Civil Judge (Sr. Dn.),  
Sangamner.