

Order Below Exh. 64.

(Passed on 10th October, 2025)

1. In this suit defendant No. 08 has moved this application with a prayer to set aside the no-cross order passed against him below Exh. 46. Defendant No. 08 submitted that, on 21-08-2025 she was out of station and therefore, she could not remain present in court and she could not cross-examine PW No. 1 Vilas Shelke. Hence, no cross order was passed against her. But, now she is ready to cross-examine PW No. 1. Hence, in order to decide the matter on merit, an opportunity of cross-examination is necessary to be granted to her for final and conclusive adjudication of the matter. Defendant No. 08 further submitted that her conduct was not intentional one but due to unavoidable reason. Defendant No. 08 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 her may kindly be set-aside and opportunity need to be granted to defendant No. 08 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 so many opportunities have been granted to defendant No. 08, hence, instant application 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. 08 and her advocate was totally negligent towards this matter. Record itself shows that even after granting several opportunities

defendant No. 08 did not appear before the court. Record also shows that defendant No. 08 remained dormant till the filing of this application. Though, these are the crystal clear facts before the court, the right of defendant No. 08 cannot be discarded and the fate of this matter cannot be decided just by considering the negligence of defendant No. 08 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 opportunity 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. 08 to cross-examine plaintiff's witness No.1. At the same time, plaintiff need to be compensated for the inconvenience caused to him due to the conduct of defendant No. 08. Therefore, considering all these aspects, I proceed to pass following order-

ORDER

- 1] Application below Exh. 64 is allowed.
- 2] No-cross order passed against defendant No. 08 in respect of plaintiff's witness No. 1 is hereby set-aside and defendant No. 08 is hereby permitted to cross-examine the plaintiff's witness No. 1, subject to costs of Rs.1,000/- to be given to plaintiff.

Date: 10.10.2025.

(Prasad B. Joshi)
5th Jt. Civil Judge (Sr. Dn.),
Sangamner.