


<b>MHAH080009072018</b> 	<b><u>ORDER BELOW EXH-69 IN RCS.</u></b> <b><u>NO. 506 OF 2018.</u></b> (Rehana Rajmahammad Bagwan <b>Vs.</b> Mahammad Lalabhai Bagwan and Ors.)
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**(Passed on 25/03/2026)**

This an application filed on behalf of the plaintiff for setting aside evidence discard order passed against her.

**02.** Plaintiff vide this application contends that, in the present suit, the Plaintiff has already filed his affidavit of evidence. However, on 20/05/2025, the Plaintiff suffered a paralysis, due to which her medical condition became extremely serious. Thereafter, the Plaintiff remained under continuous medical treatment from 20/05/2025 to 15/10/2025. Due to the said paralysis, the Plaintiff's face became distorted, and she was unable to speak properly. Her physical movements were also significantly restricted. Consequently, the Plaintiff was unable to remain present before this Hon'ble Court for the purpose of giving evidence. It is most respectfully submitted that the Plaintiff has not deliberately avoided or neglected to appear before this Hon'ble Court for the purpose of leading evidence. Her absence was solely due to unavoidable medical circumstances beyond her control. However, in spite of the aforesaid facts and circumstances, this Hon'ble Court, by its order dated 11/02/2026, was pleased to discard the

evidence of the Plaintiff. Hence, plaintiff prayed that, evidence discard order passed against her may be set aside in the interest of justice.

**03.** Respondent filed their say overleaf of the application & strongly opposed the application on a ground that, the present application is false, and the reasons stated therein are incorrect. The plaintiff has not produced any medical evidence to substantiate the alleged illness. The suit was kept for plaintiff's evidence on 05/02/2022; however, for the last four years, the plaintiff has failed to adduce any evidence. The defendant has been consistently appearing before the Hon'ble Court. It is evident that the plaintiff has deliberately caused delay in the proceedings. Therefore, it is prayed that the application filed by the plaintiff be rejected. Moreover, it is also prayed if application is allowed heavy costs may be imposed.

**04.** Pursued the application, record of the case and say filed by the defendant. It appears from record that, evidence discard order has been passed against plaintiff. However, plaintiff submitted that, because of her medical condition she could not remain present in time. The present suit is filed in the year of 2018. Plaintiff has filed her evidence affidavit at Exh.58 on 07/04/2022. As per roznama since 09/06/2022 in the proceeding adjourned for cross examination of plaintiff. However, on 14/09/2022 defendant moved application for additional issues. Said application was decided on 12/10/2023 and thereafter the

proceeding was fixed for additional evidence of plaintiff. Thereafter, plaintiff did not lead additional evidence but continued with evidence affidavit Exh.58.

**05.** Thereafter, since 11/10/2024 the proceeding was continued for the stage of cross examination of plaintiff. On 03/03/2025, directions were given to plaintiff to remain present for cross-examination. In spite that on 23/04/2025 plaintiff moved adjournment application and remained absent. Thereafter, defendant moved application on 04/08/2025 at Exh.66 for dismissal of suit. Thereafter, on 03/10/2025 at Exh.68 plaintiff moved application for adjournment on account of illness of plaintiff but it was not supported with any document. Due to repeated directions to plaintiff and her failure to comply with order of costs said adjournment application was rejected.

**06.** Thereafter, due to continues absence of plaintiff, the evidence of plaintiff was discarded by order dated 11/02/2026. Thereafter, the plaintiff moved this application and explained that, she had an attack of paralysis on 20/05/2025, due to which she was not able to remain present for her cross-examination. Thought application is opposed by defendant, plaintiff has submitted documents showing medical treatment and examination undergoing by her since 20/05/2025 till December 2025. This documents shows certain medicine prescribed and certain reports of medical examination. The prescriptions and reports shows that, the plaintiff has undergone certain medical treatment,

though it is not clear from documents that she had an attack of paralysis.

07. However, *prima-facie* these documents as well as application at Exh.68 shows that, plaintiff was suffering from illness during said period. This is sufficient cause for absence of plaintiff. Therefore, considering that there is sufficient cause for absence of plaintiff I proceed to pass following order :-

<b>:: ORDER ::</b>	
<b>01.</b>	Application <b>Exh-69</b> is hereby allowed and evidence discard order dated 11/02/2026 is set aside in the interest of justice.
<b>02.</b>	It is further directed to the plaintiff to remain present for cross-examination on next date without fail.
<b>03.</b>	In the consequence of failure to proceed with the suit by both the plaintiff & the defendants further necessary orders will be passed.

Place : Sangamner.  
Date : 25/03/2026

**(Smt. S. B. Dhawale)**  
Judicial Magistrate, First Class,  
Sangamner, Dist. Ahmednagar.