

MHAH220003772008



R.C.S. No. 103/2008

Jagannath Damodar and
Ors.

Vs.

Chaburao Sonaji and Ors.

COMMON ORDER BELOW EXH.133

(Passed on 14/06/2024)

The present application is filed by the defendants for seeking setting aside of the no cross order passed by this Court below Exh. 114 and Exh. 131.

2. It is the contention of the defendants that due to Lock Down further cross could not completed, then matter is adjourned multiple time. Therefore, it is prayed to set aside the no cross order passed by this Court below Exh. 114 and Exh. 131.

3. The application is fervently opposed by the plaintiffs by filing his say on overleaf of the application. It is contended by the plaintiffs that even previously once the defendants have got no cross order set aside then failed to complete the cross-examination. As per order below Exh. 131, the defendants failed to pay costs till date, the matter is being prolonged on purpose by the defendant. Hence, the application be rejected.

4. Heard Ld. Advocate Mr. B. C. Shelke for the defendants and learned advocate Mr. S. J. Wakade for the plaintiff.

5. Perused the record and roznama.

6. On perusal of the record, it is observed that issues were framed by my Ld. Predecessor below Exh. 49 on 20/12/2010. Since then, the matter is at the stage of evidence. Thereafter, my Ld. Predecessor closed the evidence of defendants by passing order below Exh. 108 on 20/08/2019. However, the cross reopened by passing an order below Exh. 116. Last part of cross-examination below Exh. 108 was recorded on 05/12/2021 since then it is pending. After

giving multiple chance no cross order was passed against defendants by passing an order below Exh. 132, which is by mistakenly mentioned 131 in the present application. Further, it is observed that, no cross order was passed below Exh. 114 on 04/09/2019

7. That being the fact of the matter, in order to decide the suit on merit. It is necessary to grant an opportunities to defendant to conduct cross examination of plaintiff. No prejudice of any nature will be caused to the plaintiffs if the application is allowed. On the contrary if the application is rejected it will caused irreparable damage to the defendants as they won't be able to defend themselves. However, the unnecessary prolonging of the matter cannot go ignored. Plaintiff need to be compensated accordingly. Hence, costs be imposed on the on the defendants. Therefore, I pass the following order;

ORDER

1. No cross order passed below Exh. 114 and Exh. 132 dated 04/09/2019 and 17/10/2023 respectively is subject to costs of Rs. 5000/- (Rs. Five Thousand Only) payable to the plaintiffs on or before next date.
2. Strict direction is passed against defendants conduct the cross examination of plaintiff immediately after payment of costs.
3. Needless to say if the defendants comply with this order. This order be automatically set aside.

Date : 14/06/2024

(**Rohan Vijaykumar Thayil**)
2nd Jt. Civil Judge, Junior Division,
Karjat, Dist.Ahmednagar