

MHAH220003772008



R.C.S. No. 103/2008

Jagannath Damodar and
Ors.

Vs.

Chaburao Sonaji and Ors.

ORDER BELOW EXH.143

The present application is filed by the defendants for seeking setting aside of the no cross order passed by this Court below Exh. 108.

2. It is the contention of the defendants that on 25/06/2025 they are present when called in morning sessions. Court has directed them to present for cross-examination on afternoon sessions. Thereafter, Ld. Advocate of defendants was absent on second sessions on 03:00 p.m. That time, Ld. Advocate of defendants was present in Hon'ble Senior Division, Court for argument in Sp.C.S. No. 218/2023. Therefore, they could not present for cross-examination on 03:00 p.m. Hence, application may be allowed.

3. Plaintiffs have filed their say on overleaf of the present application, wherein, they contended that case is old. Plaintiff is present on every date. It is contended by the plaintiffs that even previously second time the defendants have got no cross order set aside then failed to complete the cross-examination. Advocate engaged in another Court is not ground for adjournment. Reason mentioned in the application is not proper. Hence, the application be rejected.

4. Heard both sides.

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 17/03/2025 since then it is pending. After

giving multiple chance no cross order was passed against defendants by passing an order below Exh. 108.

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. Therefore, I pass the following order;

ORDER

1. No cross order passed below Exh. 108 dated 25/06/2025 is set aside.
2. Strict direction is passed against defendants conduct the cross examination of plaintiff immediately on next date.

Date : 10/07/2025

(**R. B. Raut**)
2nd Jt. Civil Judge, Junior Division,
Karjat, Dist.Ahmednagar