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**ORDER BELOW EXH. 21 IN R.C.S. No.11/2017**

This is an application moved by defendant to set aside no cross order dtd. 15.09.2017.

2) It was contended that before filing of their W.S, the plaintiff has filed his chief examination affidavit. However, later on the defendant filed their W.S. Thereafter, this court has framed issues. However, no cross order of this Court dtd. 15.09.2017 was remained to be set aside by the defendant. Hence, the present application was moved by the defendant.

3) Plaintiff has filed his say on the back side of application. It is submitted that defendant was prolonging the proceeding. Besides the witness no. 1 of the plaintiff, he has also filed on record the chief examination affidavit of witness no. 2 and 3. Hence, it is prayed that, the present application be rejected.

3) I have gone through the record and proceeding. It appears that no cross order was made on 15.09.2017. however, it appears from record that no W.S order against defendant were set aside by my Ld. Predecessor. Later on W.S was filed by the defendant. Later on Predecessor of this court has framed issues also. Today the present application was moved for setting aside no cross order dtd. 15.09.2017. Considering, the matter involves the

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adjudication of immovable property, if the opportunity was not given to the defendant to cross-examine the plaintiff's witnesses, it will be prejudice to him. Furthermore, if opportunity is given then it will be helpful for the court to come to a just decision of the case. However, considering the ample delay on the part of the defendant, costs need to be saddle upon them. Hence, the following order.

**ORDER**

- 1) The application is allowed subject to costs of Rs.1000/- (Rupees One Thousand only) paid to the plaintiff on or before next date.
- 2) On payment of costs the order of 'no cross' passed on dtd 15.09.2017 is set aside and permission granted to cross the plaintiff.

Date: 04.09.2019

( S. R. Shinde )  
3<sup>rd</sup> Jt. C.J.J.D.Vaijapur.

**CERTIFICATE**

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the Stenographer : Smt. Mulla.H.B.  
Court : Shri.S. R. Shinde, 3<sup>rd</sup> Jt. CJJD & JMFC.,  
Vaijapur, Dist.Aurangabad.  
Date : 04.09.2019.  
Order signed by the presiding officer on : 04.09.2019.  
Order uploaded on : 05.09.2019.