

**Order passed below Exh. 86 in R.C.S. No. 308/2001**  
**Gorakhnath Vs Municipal Council Gangapur & others**

01. The defendant No. 2 filed this present application for setting aside “No Cross-Examination Order” passed below Exh. 84. It is contended that the defendant No. 2 was present since morning, but he did not come to know when the suit is called on and therefore No Cross-Examination Order was passed. Hence, the defendant No. 2 prayed to allow the application.

02. The plaintiff strongly objected to allow the application and submitted that affidavit is filed on 10.04.2013 and from time to time the defendant got adjourned the matter without cross-examination and the Court was pleased to pass No Cross-Examination Order against the defendant No. 1. On 08.03.2016 major cross-examination was completed, but deliberately matter got adjourned and on 16.06.2016, the defendant's Advocate were called 3 times in the morning sessions, but no one came before Court. Suit is very old. The defendant No. 2 wants to prolong the matter, hence he has filed present application. Hence, the plaintiff prayed to reject the application.

03. Heard learned Advocate Shri. D. V. Sabne for the defendant No. 2 and learned Advocate Shri. B. R. Rajput for the plaintiff.

04. It appears that No Cross-Examination Order was passed on 16.06.2016 and on the same day the defendant No. 2 filed

present application for setting aside No Cross-Examination Order. Already part of cross-examination is completed. It is a matter of record that cross-examination is continued for more than 2-3 years and the suit is very old, therefore it needs to be decided expeditiously. To decide the suit on merit and to grant chance to the defendant, I am inclined to allow the application. Hence, I pass the following order.

### **ORDER**

- 1) Application is allowed.
- 2) No Cross-Examination Order passed below Exh. 84 on 16.06.2016 is hereby set aside subject to cost of Rs. 500/- to be given to the plaintiff and the defendant No. 2 is directed to complete the cross-examination on next date without fail.

Date :- 21<sup>st</sup> September, 2016.

Sd/-  
(Ajay A. Bhatewara)  
Civil Judge (Junior Division),  
Gangapur

### **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	:	Akshay R. Kulkarni.
Court	:	Civil Judge (J.D.), Gangapur.
Order Date	:	21-09-2016.
Order signed by the Presiding Officer on	:	23-09-2016.
Order uploaded on	:	23-09-2016.