

ORDER BELOW EXH. 10 IN R.C.S. NO. 192/2024
(Saber Khan Vs. Shakila Begum)

This is an application for setting-aside no-say order, no-cross order and no-evidence order.

02. It is submitted that, in the present suit on previous date defendant could not appear because of illness and want of knowledge. Her conduct is incidental one and not intentional one. If she is not permitted to conduct the matter then she shall suffer great loss which can not be compensated. Hence, it is prayed for granted the very application.

03. The say of plaintiff was called upon. Accordingly, Ld. Advocate U. T. Shaikh represented the plaintiff filed his say vide Exh. 11 and opposed the application contending that, the defendant has filed this application only for passing time. No sufficient and reasonable cause is cited in the very application. In the support of cause no single document is filed on record. As such, the application appears to be illegal one. Hence, it is prayed for rejecting the very application.

04. Perused the application, say thereon and record in hand. It appears that, plaintiff Saber Khan Sikandar Khan Pathan filed present suit for restitution of conjugal rights under Section 281(1) of the Muslim Act against defendant Shakila Begum Saber Khan.

05. On perusal of order sheet of the present suit, it appears that defendant was served with suit summons as per bailiff report vide Exh. 7 filed on record on dated 03/07/2024. As on dated 03/08/2024 and 07/08/2024

defendant did not cause her appearance an order of ex-party proceeding was passed against her on dated 12/08/2024. On 12/09/2024 vide Exh. 08 plaintiff filed his evidence and the same was read and recorded on dated 12/09/2024. On dated 04/11/2024 plaintiff closed his evidence by filing purshis vide Exh. 09. As defendant did not filed her evidence her evidence was closed on dated 26/11/2024 and the case is put up for the Judgment as on 04/01/2025. Thereafter, on 20/02/2025 defendant filed this application on the ground of illness. But, no document is filed by defendant to substantiate the very cause.

06. Whereas, this is matrimonial matter between husband and wife and defendant is residing separately from plaintiff, it requires to give an opportunity to her to contest the very suit. Because Judgment on merit shall cause the justice. Hence, in the opinion of this Court, this application is to be allowed. Accordingly, I pass the following order :-

ORDER

1. An ex-party order passed against defendant is set-aside.
2. Defendant is hereby permitted to file her written statement.
3. No-cross order passed against defendant is set-aside.
4. No-evidence order against defendant is set-aside.

Date – 09/06/2025

(K. T. Adhayke)
Jt. Civil Judge Jr. Dn.,
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