

MHBI160012332016



ORDER BELOW EXH.43 IN R.C.S. No. 581/2016.

(Shailendra Vs Maroti & Ors.)

Defendants filed present application for setting aside 'no cross order' passed below affidavit of plaintiff.

2. Plaintiff filed his say below application and opposed it.
3. Perused the application and say along with record of the suit. Heard learned advocates for both sides. It appears that, plaintiff has filed his evidence affidavit at Exh. 23. Defendants were absent when called for cross-examination. Therefore, no cross-examination order was passed against defendants on 12/07/2024. Thereafter, plaintiff has filed evidence close pursis at Exh. 38 and closed his evidence and present suit is proceeded for defendants evidence. Thereafter, defendant No.1 has filed his evidence affidavit at Exh.42 and suit is pending for cross-examination of defendant No.1. Now, the suit is pending for cross-examination of defendant No.1. However defendants have filed present application with prayer to set aside no cross order passed against them.
4. Perused the record. Heard Ld. advocate for both sides. As a natural justice, both parties should be heard and given equal opportunity to put their case before the Court. In the present case, if application is rejected, defendants will not bring their defence before the Court through cross examination and it will cause great hardship on the part of defendants. On the other hand, if permission is granted as prayed then it will not cause any bad

effect on plaintiff. Moreover, it will help to the Court to decide the dispute between the parties on merit.

5. Considering the nature of suit and rule of natural justice, opportunity for cross-examination will have to be given to defendants. Admittedly, the suit is near more than 09 year old and defendants have caused delay for cross-examination of the plaintiff. But only on the count of delay right of defendants to cross examine plaintiff cannot be deprived. As far as delay is concerned it can be compensated by way of imposing reasonable cost. Considering the delay caused by defendants amount of Rs. 500/- is sufficient to impose on defendants as a cost. Hence, I proceed to pass following order is passed.

Order

1. Present application is hereby allowed and 'no cross order' passed below affidavit of plaintiff against defendants are hereby set aside subject to cost of Rs. 500/-.
2. Defendants are hereby directed to pay cost amount to the plaintiff and thereafter conduct cross-examination of plaintiff without seeking adjournments.
3. Parties to note.

Shirur Kasar
Date:- 20/03/2025

(A.S.Jagtap)
Civil Judge Junior Division,
Shirur Kasar.

"I affirm that the contents of this PDF file are word to word as per original Judgment/order".

Dictated on : 20/03/2025

Transcribed on : 20/03/2025

Checked & signed on : 20/03/2025

[Sagar S. Ajabe]
Stenographer Grade-3