

ORDER BELOW EXH. 65 IN RCS NO. 53/2015.

(Passed on 11.01.2024)

1. This is an application filed by plaintiffs to get setting aside no cross order dated 13.12.2022 passed at Exh. 63 against them.
2. Plaintiffs contended that, present suit is pending for evidence of defendants. On the relevant date, plaintiff was hospitalized due to old age. So they could not appear before this court and conduct cross-examination of DW-1. Now, they wanted to set-aside no cross order and conduct cross-examination of aforesaid defendant's witness. Lastly, they requested to set aside no cross order passed against them dated 13.12.2022 at Exh. 63.
3. On the contrary, learned advocate for defendants strongly opposed and resisted to the application. They prayed for either to reject the application or alternatively, impose cost of Rs. 2,000/-, in case of allowed.
4. Heard learned advocates, Shri.P.A.Jaybhaye for plaintiffs. I have also heard Shri.S.A.Sanap for defendants.
5. Perused an application at Exh. 65 and say filed by plaintiff's advocate. I have gone through with record and proceedings of this case.
6. The present suit came to be filed in the year 2015. It is fixed for evidence part heard. Defendant's have filed the affidavit of Gulab Fakira Rindhe at Exh 63 on 04.08.2022. But, plaintiff's advocate had not cross-examined to the witness of defendant. Therefore, this court has

passed no-cross order against plaintiff's. Now, plaintiffs submitting that, on the date of hearing he was hospitalized. So, could not instruct to his advocate of necessary information. Because of this, their advocate could not conduct cross-examination of defendant's witness. Considering the grounds, it seems to be sufficient cause in order to proper and effectual adjudication, plaintiffs must be heard. In this, defendants should not suffer unnecessary due to fault of defendant's side. Considering above aspect, I proceed to pass the following order.

ORDER

- 1) The application at Exh. 65 is allowed, subject to costs of Rs. 1000/- payable to defendants, on or before next date.
- 2) On payment of cost, no cross order passed against plaintiffs dated 13.12.2022 at Exh. 63 is set aside and they are allowed to conduct cross-examination of defendants witnesses No. 1 Gulab Fakira Rindhe at Exh. 63.

Sd/-

(V. S. Raut)

Place – Lonar.

Civil Judge Jr. Division, Lonar.

Date : 11.01.2024.

J.O. Code : MHBI-02-2830

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

Name of Court :- Shri V. S. Raut,
Civil Judge Jr. Dn. Lonar.

Name of Steno :- Rajeshwar Dipak Bodhekar.
Stenographer, Grade - 3, Lonar.

Date : 11.01.2024.