

MHGO070002122021



**Regular Civil Suit No.14/2021**  
**Rekha-Vs-Jageshwar**

**Order below Exh.45**

( Passed on this 18<sup>th</sup> day of December, 2025 )

1. The defendant filed the present application for setting aside order dated 8/4/2025 passed below Exh. 32 and to grant permission for cross-examination of plaintiff and her witnesses. Say on said application is also filed by the plaintiff on 13/10/2025. Perused the application, say, documents and record. Heard Advocates for both parties.

2. It is the contention of defendant that his counsel had gone out of the village and there he was suffering from fever. The defendant was present before the Court but he does not know the legal knowledge. It is further contended by the defendant that as his counsel could not remain present before the Court to cross-examine the PW no. 1, 'no cross order' was passed by the Court on 8/4/2025 on Exh. 32. Therefore, for fair disposal of the present case and for natural justice, the defendant prayed to set aside order passed on 8/4/2025 on Exh. 32 and to grant permission to cross-examine plaintiff and her witnesses.

3. The Learned advocate for the plaintiff submitted his say on the said application (Exh.32) contending that examination-in-chief of plaintiff was over on 13/11/2024 and since then the case was fixed for cross-examination of the plaintiff. However, defendant deliberately avoided to cross-examine the plaintiff. Thereafter, five dates have passed away but the defendant did not file any medical certificate in respect of his fever. Therefore, plaintiff submitted to reject the said application.

4. Perusal of record reveals that suit is filed for grant of permanent injunction and issues were also framed below Exh. 31 on 20/12/2022. It also shows that defendant had not filed his written statement within stipulated period and filed an application below Exh. 25 for grant of permission to file his written statement on 3/1/2022. Said application came to be allowed on 15/02/2022 with costs. Further, after framing of issues, plaintiff filed her affidavit of evidence on 23/08/2023 at Exh.32 and her examination-in-chief was completed on 13/11/2024. Thereafter, matter was kept for her cross-

examination. However, as learned counsel for the defendant was absent, 'no cross order' was passed on 08/04/2025. It shows that on that day, defendant himself was present, however he has not filed any adjournment application. Thereafter, three dates were given, but present application for setting aside 'no cross order' is filed on 13/10/2025. It is to be noted that neither any medical certificate nor any document is filed on record to support the reason mentioned in present application of defendant that his counsel was having ill health and he was out of station on 8/4/2025. Record shows that there is time to time delay in the proceeding for want of effective prosecution by the defendant. However, if the application is rejected, then it will not only cause injustice to the defendant but also results in the multiplicity of proceedings. Therefore, I found that in the interest of justice, one opportunity needs to be given to the defendant for fair trial. At the same time, it is necessary to compensate the plaintiff for delaying the matter at the instance of defendant by imposing appropriate costs. Therefore, I pass the following order:-

**ORDER**

1. The application (Exh. 45) is hereby allowed subject to costs of Rs. 500/- (Five Hundred only) to be paid to the plaintiff by the defendant on or before next date.
2. Order dated 8/4/2025 passed below Exh.32 is hereby set aside subject to payment of costs amount.
3. The defendant is directed to conduct the cross- examination of P. W. no. 1 on next date positively and both parties are directed to expedite the matter to avoid further delay in the proceeding.
4. Parties to note the order.

Date : 18-12-2025

( V. S. Mendhe )  
Civil Judge, Junior Division,  
Deori

**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 : Sanjiwan s/o Waman Malame  
Court Name : Shri V. S. Mendhe, C.J.J. D. Deori

Date of Judgment :- 18.12.2025.

Date of Presiding officer

on Judgment :-18.12.2025.

Judgment uploaded on:- 18.12.2025.