


MHKO050009552018 	<u>R.C.S. NO. 110/2018</u> <u>Shri Arun Hanmant Kulkarni</u> <u>Vs.</u> <u>Mukund Hanmant Kulkarni</u>
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ORDER BELOW EXH. 64

The defendant has filed present application for setting aside “No evidence” order passed against him. The plaintiff filed his say below Exh. 65 and strongly resisted the said application. Heard the both sides.

2. According to the defendant, the impugned adoption deed was executed in 1993. Meanwhile, the original plaintiff has demise. The defendant is doctor, therefore, due to their professional work, he did not present before the Court. The delay caused is not intentional. No prejudice will be caused to plaintiff, if present application is allowed. Hence, for the reasons stated in the application, he prayed to allow the application.

3. Ld. Advocate for the plaintiff submitted that, the Exh. 05 is allowed on 23.05.2018 and plaintiff closed his evidence on 01.02.2024. Since then, matter is kept for evidence of defendant. After giving sufficient opportunity, on 15.02.2024, ‘no evidence’ order was passed against defendant. The application of defendant to set aside no evidence order below Exh. 50 was allowed with cost of Rs. 300/- and last chance was given to defendant. However, defendant has not adduced his evidence, therefore, again on 07.10.2025, ‘no evidence’ order is passed against defendant. Only to prolong the matter, said application is filed. Hence, he prayed to reject the application with cost.

4. Perused the record of the case, from it appears that, matter is pending for evidence of defendant since 01.02.2024. Since then, defendant is prolonging the present matter by availing adjournment. After adducing

evidence of the defendant, matter was kept for adducing further evidence of the defendant on 06.09.2024, 05.10.2024, 05.11.2024, 02.12.2024, 21.12.2024, 18.01.2025, 11.02.2025, 03.03.2025, 29.03.2025, 17.04.2025, 25.06.2025, 14.08.2025, 03.09.2025 and 16.09.2025. After considering the time availed by the defendant to adduced further evidence, the matter was proceed and evidence of the defendant was closed on 07.10.2025. After that, the plaintiff has filed his written argument on 15.12.2025 and matter was kept for argument of the defendant. When matter was kept for the argument of the defendant, the present application is came on the record. The defendant has not filed any application after closing his evidence on 07.10.2025. Defendant was already availing sufficient time to adduced his evidence, but failed to do so. The reasons mentioned in the present application is not justifiable ground to set aside 'no evidence' order passed on 07.10.2025. Hence, in the interest of justice, I pass following order:-

:: ORDER::

1. Present application is hereby rejected and defendant is directed to argue on next date. If failed to do so, then suit will be kept for judgment.
2. Parties to take note.

Ichalkaranji
Date :-05/01/2026

(A. M. Gaikwad)
3rd Jt. Civil Judge, Jr. Dn.
Ichalkaranji, Dist. Kolhapur