

MHKO050012742017

**Regular Civil Suit No.126/2017****Akaram Kallappa Khot****Versus****Rukmini Sudhakar Shinde & Ors.****Order below Exh.37**

By this application, the defendant no.2 prayed to set-aside the 'No evidence order' passed against him on 27/01/2026. Plaintiff filed his say below the application.

02. Perused the application and say. Considered the submissions made.

03. Ld. Advocate for the defendant no.2 submitted that compromise between the plaintiff and defendant may be occurred and there is such discussion is going on. Therefore, the defendant no.2 not appeared before the Court. It is submitted that the affidavit of chief examination is already filed on record and defendant no.2 remained absent for cross-examination. It is also submitted that conduct of defendant no.2 was not deliberate and he wishes to put his defence before the Court. Hence, prayed that the application be allowed.

04. The Ld. Advocate for the plaintiff strongly opposed the application and submitted that the defendant no.2 is playing delay tactics, he neither wants to proceed with the case nor ready to arrive at compromise. Hence, it is prayed that the application be rejected with heavy cost.

05. On perusal of the record and considering the submissions made, it appears that many opportunities given to the defendant no.2. The matter is of 2017 and I find that defendant no.2 is playing delay tactics. For the purpose of compromise, the plaintiff remains present before the Court on every date fixed for the hearing, however, the defendant no.2 consistently absent in the matter. In such circumstances it cannot be said that he is with bona fide intention. However, in the interest of justice and complete adjudication of the matter, last opportunity may be given to the defendant no.2. At the same time, harassment/inconvenience caused to the plaintiff due to delay cannot be ignored. It can be sufficiently compensated through cost. Hence, the following order is passed;

ORDER

- (i) The application at Exh.37 is allowed.
- (ii) The 'No evidence Order' passed against the defendant no.2 is hereby set-aside, subject to payment of costs of Rs.3000/- to the plaintiff on next date.

Place : Ichalkaranji.
Date : 24/04/2026.

Sd/-
(M.S. Gawade)
5th Jt. Civil Judge Junior Division,
Ichalkaranji.