

MHKO050018282017



Regular Civil Suit No. 193/2017

Tukaram Bandu Dhulugade

Vs.

Vijaykumar Raghunath Kulkarni

Order Passed Below Exh. 83

Defendant No. 1 to 5 have filed present application to set aside “No cross order” order passed on 13/08/2025 and permit them to conduct cross-examination. The plaintiff has strongly resisted the prayer of defendant by filing their say below Exh. 84. Perused the application and say. Heard Ld. Pleaders for both the parties.

2. Ld. Advocate of defendant No. 1 to 5 has argued that, due to some essential court work, on 13.08.2025 he has to go on Battis Shirala Court, therefore he has not present before the Court and not examined the plaintiffs. The delay caused for said application is not intentional. The present matter is required to be decide on merit. If defendants denied to conduct cross examination then defendants would not be in position to raise their defence, hence, prayed to granting the relief sought by him by considering the reasons given in the application. On the other side, Ld. Advocate of plaintiffs has argued that, no cogent reason is stated in the application for delay. The defendants have given sufficient opportunity to conduct cross, but they deliberately prolonged the matter hence, prayed for rejection of the present application with costs.

3. After considering the argument advanced by the both parties. Considering the application made by the defendants from which appeared that, in application they have assigned the reasons.

If the present suit is ordered to be proceeded without no cross of defendants, then defendants would not be in a position to set up their valid defence. Therefore, in order to decide the real controversy between the parties, opportunity of being heard is essential to be given to the defendants. If said defendants are denied to conduct cross, then grave injustice would be caused to them. The no cross order passed against defendants on 13.08.2025, however said application is filed on 03.09.2025. Therefore, it is necessary to impose costs on the said defendants to compensate the plaintiffs for delaying the matter. Considering the delay caused by the said defendants for conducting cross of plaintiffs it would be proper to impose costs of Rs. 500/- paying to the plaintiffs. Considering above facts and circumstances and in the interest of justice, I pass following order.

:: ORDER ::

1. Present application is allowed.
2. "No cross " order passed against defendant No. 1 to 5 stands set aside subject to cost of Rs. 500/- (Rupees Five Hundred only) payable to plaintiffs. The said costs amount be paid on the next date at morning without fail. After necessary compliance defendants are permitted to conduct cross-examination of witness.

Ichalkaranji
Date :- 06/10/2025

(A. M. Gaikwad)
3rd Joint Civil Judge, J. D.,
Ichalkaranji, Dist. Kolhapur.