



**ORDER PASSED BELOW EXH.74**  
**IN REGULAR CIVIL SUIT NO.37/2020**

[ CNR No.MHKO090000852020 ]

The present application is filed by defendant nos.2, 5 and 6 to re-call the witness. In short, it is the contention of the defendants that the defendants' advocate was busy in another Court, therefore, they could not cross-examine the witness. The defendants never avoided to cross-examine the witness, therefore, in the interest of justice, the witness be re-called.

2. The present application is strongly opposed by the other side on the ground that the reason mentioned by the Advocate for the defendants is not just and in accordance with the law. The defendants intentionally remained absent and even not moved the application for adjournment, therefore, the right to cross-examine the witness is forfeited. Thus, the application is liable to be rejected.

3. Perused the record. In view of Order XVII Rule 1(c) of Civil Procedure Code, it is specifically mentioned that pleader of the party is engaged in another Court, shall not be the ground for adjournment. Therefore, the reason mentioned by the Advocate for the defendants is not just and proper. Further, the defendants on the said day, not moved any application to adjourn the

proceeding. In such circumstances, the application deserves to be rejected. However, in the present suit, the issue is related to the nuisance and defendant is public body, therefore, I am of the view that one fair opportunity should be given, but subject to the cost. Hence, I pass the following order :-

**ORDER**

1. The application is allowed subject to the cost of Rs.500/- (In Words Rupees Five Hundred Only) to be paid to the witness.
2. The defendant nos.2, 5 and 6 are directed to deposit the bhatta in advance for the cross-examination.

Place : Gadhinglaj.  
Date : 06.08.2025.

( N. S. Puri )  
Civil Judge Senior Division,  
Gadhinglaj