

MHKO100018472016



Order passed below Exh.23

This is an application by defendant no. 1 to 4 for setting aside no cross order passed against them below Exh. 21.

2. Read the application and say filed thereon. Heard Ld. Advocate for both the sides. Perused the entire case record. In this application, defendant no. 1 to 4 have taken the grounds inter-alia that due to Covid-19 disease court functioning almost stopped and they could not obtain information from the their Advocate. Similarly, it is contended that, defendants are old aged persons therefore, opportunity need to be given to them to put their case. Application is opposed on the ground that, the reason is not sufficient and cogent because no cross order has been passed after Covid period. It is also contended that, the plaintiff is residing at Mumbai, he is in service therefore if application is allowed heavy cost be imposed on defendant.

3. I have considered the rival submissions and contemplated case record. It is seen that, defendant no. 5 has cross examine the plaintiff but no cross order has been passed against defendant no. 1 to 4 on 30/08/2022. Needless to mention that,

no cross order has been passed after Covid period. Therefore the reason mentioned in this regard is not acceptable. However, it is seen that, suit is filed for declaration in respect to land Gat no. 1223 of village Nool and contesting defendants are old aged persons. Therefore, in order to decide the real controversy on merit, it would be just and proper to give an opportunity to defendant no. 1 to 4 to cross examine the plaintiff on Exh. 21. However, it is seen that, affidavit at Exh. 21 has been filed on 19/11/2021 and no cross order has been passed on 30/08/2022 i.e. by giving several opportunities to defendants. Therefore before allowing these defendants to cross examine the witness, it is equally necessary to impose heavy cost on them. Ultimately, I pass the following order.

O R D E R

Application Exh. 23 is allowed subject to cost of Rs. 2000/- (Rs. Two Thousand only) to be paid to the plaintiff.

(Dictated in pronounced in open court)

Date 14/03/2023.
Place : Gadhinglaj

(M.T. Kharade)
Jt. Civil Judge Jr. Division
Gadhinglaj