

MHKO110007542017



Reg. Civil Suit No. 78/2017.
(CNR No.MHKO110007542017)

Order Below Exh. 77.

(Hanifa Naikawadi Vs. Jaypal Chaugule)

01. The present application is made on behalf of the defendant Nos.6-A and 6-B, with the prayer to set aside 'No Cross' order passed against them.

02. It is submission the defendants that, on the previous date of the trial the present case was fixed for cross-examination of the plaintiff at the hands of defendants. But, due to on the day they are appear before Sub Divisional Office, Karveer, it was not possible to the defendants to appear before the court and conduct the cross-examination of the plaintiff. So, they failed to cross-examine the plaintiff. As the consequences 'No Cross' order was passed against them on 11/12/2025. They finally prayed that, they did not willfully avoid to conduct the cross-examination of the plaintiff, so they prayed to grant one more opportunity to them to conduct the cross-examination of the plaintiff.

03. The plaintiffs filed their say on the overleaf of an application and resisted the application on various grounds. It is further submission of the plaintiffs that, defendants were will aware about the case status and they intentionally avoided the cross-examination of the plaintiff. Hence, this Court passed 'No Cross' order against the defendants. Hence, prayed to reject the application if allow the application on heavy costs.

04. Perused the application, say there on. Heard to both the parties.

05. No doubt on perusing the documents of the suit, it is crystal clear that, the defendants failed at conducting the cross-

examination of the plaintiff. But it is also necessary to consider here that, the cross-examination is the best weapon in the hand of any party to bring on record the true facts relating to the proceeding before the Court and to establish their case. On the other hand to decide the issues involved in the suit finally on the merit, it is also necessary to have on record the through cross-examination of either parties to the proceeding. For that purpose also an opportunity needs to be given to the either party to conduct the cross-examination of the opposite party's witnesses.

06. Hence, considering above position, I am of the opinion that, it will be in the interest of justice to give one more and final opportunity to the defendants to conduct the cross-examination of the plaintiff. On the other hand, it is also necessary to consider here that, due to the inactivity on the part of the defendants, hardship was caused to the plaintiffs, hence to compensate the same, it is in the interest of justice to impose costs upon defendants while allowing the present application. Hence by considering above discussion, I proceed to pass following order.

ORDER.

1. The application vide **Exh.77** is hereby allowed
2. 'No Cross' order dated 11/12/2025, passed against the defendant 6-A and 6-B are hereby set aside subject to costs of Rs.200/- (Rs. Two Hundred), it be paid to the plaintiffs.
3. Application is disposed off accordingly.

Date : 11/06/2026.

(Shrinivas. A. Kulkarni)
Jt. Civil Judge Junior Division,
Peth-Vadgaon.