

MHKO110008682021



Civil M.A. No.15 / 2021.
(CNR No.MHKO110008682021)

Order Below Exh.23.

01. The present application is made on behalf of the non-applicants, with the prayer to set aside 'No Cross' order passed against them.

02. It is submission of non-applicants that, due to oversight they did not notice the examination-in-chief affidavit filed by the applicant and hence, they failed to cross-examine the witness. In result 'No Cross' order was passed against them on 11/01/2024. It is further submission of non-applicants that, they did not willfully or intentionally avoided to conduct the cross-examination of the witness. So they prayed to grant one more opportunity to them to conduct the cross-examination of the witness.

03. Applicant filed his say at **Exh.25** and submitted that, to delay the proceeding of the present application, non-applicants intentionally avoided to conduct the cross-examination of the witness and hence applicant requested to reject the application. Alternatively, he prayed for heavy costs.

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

04. No doubt on perusing documents of the original application, it is crystal clear that, sufficient opportunity was given to

the non-applicants for conducting the cross-examination of the witness for applicant, but they failed to do so. But it is also necessary to consider here that, the cross-examination is the best weapon in the hand of opposite party to bring on record the true facts relating to the proceeding before the Court and to establish his defence. On the other hand to decide the issues involved in the original application, 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.

05. 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 non-applicant to conduct the cross-examination of the witness for applicant. Hence by considering above discussion, I proceed to pass following order -

ORDER.

1. The application vide **Exh.23**, is hereby allowed
2. 'No Cross' order dated 11/01/2024 passed below **Exh.20** is hereby set aside subject to costs of Rs.200/- (Rs. Two Hundred), it be paid to the applicant.
3. The non-applicants shall conduct and complete the cross-examination of the witness without seeking any adjournment.
4. Application is disposed off accordingly.

Date : 02/07/2024.

(**L.M.Pathan**)
Civil Judge Junior Division,
Peth-Vadgaon.