

MHKO110017402017



Reg.Civil Suit No. 115/1996.
(CNR No.MHKO110017402017)

Order below Exh.124
(Dhondubai Powar Vs. Babu Yadav)

01. The present application is made on behalf of the plaintiff with the prayer to set aside 'No Cross' order passed against him.
02. It is submission the plaintiff that, on the day fixed for conducting the cross examination of plaintiff, his Ld. Adv. did not appear before the Court as he was out of city. So due to his absence it is not possible for him i.e. plaintiff to conduct the cross-examination of the defendant. As the consequences 'No Cross' order was passed against him. He finally prayed that, he did not willfully avoid to conduct the cross-examination of the defendant so he prayed to grant one more opportunity to him to conduct the cross-examination of the defendant.
03. Defendant filed his say on the leaf of the application submitting that, reasons mentioned in the application is not believable. He further submitted that, matter is so old and only with intention to drag the suit, intentionally avoiding to conduct the cross-examination of defendant. Hence he prayed to reject the application.
04. No doubt on perusing the documents of the suit, it is crystal clear that, the plaintiff failed at conducting the cross-examination of the

defendant. 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 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.

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 plaintiff to conduct the cross-examination of the defendant. On the other hand, it is also necessary to consider here that, due to the inactivity on the part of the plaintiff hardship was caused to the defendant, hence to compensate the same, it is in the interest of justice to impose costs upon plaintiff while allowing the present application. Hence by considering above discussion, I proceed to pass following order.

ORDER

- 1) The application is hereby allowed
- 2) 'No Cross' order passed against the plaintiff is hereby set aside subject to costs of Rs.400/- (Rs. Four Hundred), it be paid to the defendant.
- 3) The plaintiff shall conduct and complete the cross-examination of the defendant without seeking any adjournment.

Date : 03/08/2023.

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