



Order below Exh. 97 in R.C.S.No. 2/2005

Shri. Kiran Gopal Gavade, Ors. Vs. Shri. Gopal Rukmana Gavada, Ors.

This is a suit for cancellation of sale deed and separate possession. By application below Exh. 97, plaintiffs prayed to set-aside the 'No Cross' order dtd. 08/12/2021. In the application it is contended that, on the date plaintiff has not taken cross-examination of defendant No. 1, however, the Ld.Advocate of the plaintiffs was not present before the Court as his clients had not given necessary information to him as they were also absent and in consequence the above referred order is passed. For better opportunity of hearing the said order is required to be set-aside and the plaintiffs are required to be granted an opportunity of cross-examination of the said witness of defendant No.1. Hence, prayed accordingly. The application is supported with the affidavit of the plaintiff No. 1.

2. The application is strongly objected by the defendants by filing their say behind the application itself. It is contended that, the application is filed belatedly. Also, reasons given in the application are not just and satisfactory. Thus, the defendants prayed to reject the application and prayed heavy costs in the alternate.

3. From perusal of the record it can be gathered that the order which is sought to be set aside is passed on 08/12/2021 and the application in hand is filed on 12/09/2022. Thus, the plaintiffs does not appear to be vigilant in taking recourse. No doubt, cross-examination is the touchstone to test the truthfulness of the oral evidence of witness. However, it can not be ignored that, the application is filed after consuming a large period and thereby the plaintiffs caused delay in progress of the matter. However, if such an opportunity is not granted, plaintiffs may be put at sufferance. Hence,

following order -

ORDER

Application below Exh. 97 is granted subject to costs of Rs. 500/- to be paid to the plaintiffs and Rs. 500/- separately be deposited in the Court against allowance to be paid to the witness.

Both the amounts shall be paid within 15 days from the date of this order, failing which effect of this order shall be regarded as inoperative.

On payment of costs amount, No-cross order passed on dtd. 08/12/2021 shall stand set-aside and the Ld.Advocate of the plaintiffs is granted permission to conduct cross-examination of the defendant witness No. 1 forthwith when he remains present on next date.

Chandgad
dt. 12.09.2022

(Amrit C. Birajdar)
Civil Judge Junior Division, Chandgad