

ORDER BELOW EXH- 91.

Defendants have filed this application for setting aside no cross order pass against them. It is contention of defendants that, no cross order was passed against them. Further, meanwhile due to non availability of material documents and medical reason of their counsel unable to proceed with matter. If opportunity for cross-examination not granted to them, they would suffer irreparable loss. Thus, prayed to allow their application.

2. Counsel for plaintiffs endorsed his say backside of the application and strongly opposed. He contended that, the reason sought by present defendant is false and baseless. They have not filed single application for adjournment on record. Thus, prayed to impose heavy cost or reject the application.

3. I have heard both counsels. They argue in verbatim of their application and say. Counsel for defendant submitted that, immovable properties were involved in present suit. Due to his personal medical reason, he could not able to attend the court and cross-examine witness. His absence not be a reason for denial of defendant's right. Thus, considering principle of natural justice, prayed to grant one more opportunity to cross-examine witness. Per contra, counsel for plaintiff contended in same voice of his say and prayed to reject the application.

4. The cross-examination is indeclinable right of every party. Defendant contended and admitted the delay caused for cross-

examination. Though the absence of counsel of defendant is not ground to reject them opportunity to cross-examine. However, no single application for the alleged reason on record. Therefore, I do not find any force in the submission of defendants. Considering nature of proceeding and for fair trial one more opportunity need to be given to defendants. This case is pretty old, therefore, some cost deserved to be imposed over defendants for delay. No prejudice would be caused to the plaintiff, if application allowed. Per contra if it rejected it will amount declined of natural right to defence. Thus, in result of above discussion in the interest of justice, I pass following order,

ORDER

1. Application is allowed, subject to cost of Rs. 1,000/- paid to plaintiffs.
2. Defendants are directed to comply order and cross-examine plaintiff's witness on next date without fail.
3. Plaintiffs are directed to remain present their witness for cross-examination on next date without fail.
4. Parties to take note and proceed further.

Place- Ajara.
Date- 10.06.2025.

(R. P. Thore)
J.O.Code No.MH02897
Civil Judge, Junior Division,
Ajara.