

**ORDER BELOW EXH- 81.**

Defendant has filed this application for setting aside no cross order pass against him. It is contention of defendant that, on 01.04.2025 witness of plaintiff was absent during first session of court proceeding. Therefore, his counsel due to his other engagement unable to present before this court in second session. Witness for plaintiff present in second session and due to absence of his counsel, no cross order was passed against him. He having sanguine hope of success. If his application rejected, he would suffer irreparable loss. If his application allowed, no prejudice would be caused to the other party. Thus, prayed to allow his application.

2. Counsel for plaintiff endorsed his say at the corner on an application and opposed. He contended that, reason sought by defendant is not valid. Thus, prayed to reject the application.

3. Counsel for defendant Shri. Baddare is absent. In his representation heard counsel Shri. G. J. Patil for defendant. Counsel for plaintiff Shri. S. R. Powar prayed to pass appropriate order.

4. On perusing record it shows that, on 01.04.2025 due to absence of counsel for defendant no cross order was passed against him. The reason sought by defendant due to absence of his counsel during second session of court proceeding is not sufficient and justifiable. As per record, p. w.2 adduced his evidence affidavit on 23.01.2024 and since then pending for cross-examination. As per record, witness was present. Even while calling defendant, he was absent and no adjournment application on

record. Therefore, I do not find any force in the submission of defendant that, witness was absent on fixed date.

5. Defendant after subsequent date of order filed present application. It shows that, they constantly follow the proceeding, however not proceed properly. The cross-examination is indeclinable right of every party. The plaintiff is ready for cross-examination. No prejudice would be caused to the plaintiff, if application allowed. Per contra if it rejected it will amount declined of natural right to defendant. 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. 500/- paid to plaintiff.
2. Defendant is directed to comply order and cross-examine plaintiff on next date without fail.
3. Plaintiff is directed remain present on next date for cross-examination without fail.
4. Parties to take note and proceed further.

**(R. P. Thore)**

J.O.Code No.MH02897

Civil Judge, Junior Division,  
Ajara

Place : Ajara.

Date : 10.7.2025.