

R.C.S. No. 60/2011.  
Ashok & Ors Vs. Laxmi Milk & Ors.  
MHKO150001652011

**ORDER BELOW EXH- 100.**

Defendant no. 1 has filed this application for setting aside no cross order pass against him. It is contention of defendant that, plaintiff has adduced his evidence below Exh. 90. However, meanwhile due to brain hamerage of his advocate Shri. S. V. Powar, he could not cross examine plaintiff. Thereafter, he has appointed new advocate and giving information to them. The delay caused for cross-examination is not intentional. He is ready to cross-examine witness. Thus, prayed to allow his application.

2. Plaintiffs filed their say over the application and prayed to pass appropriate order.

3. Perused record. Heard advocate for both sides. They argue in verbatim as per their application and say. I have gone through the record with the help of both counsels. This is suit for perpetual injunction. The plaintiff adduced evidence of his witness no. 2 at Exh. 90. However, due to failure of this defendant no cross order passed against him on 11.12.2023. Further, meanwhile defendant no. 1 has appointed new advocate and adduced his evidence below Exh. 91. Thereafter, he came to know above no cross order passed against him below Exh. 90.

4. The medical reason given by defendant no. 1 of his advocate is not denied by plaintiffs. As per record, adjournments were sough by this defendant on same ground. The reason sought by defendant no.

1 is justifiable. Further, he having valuable right to cross-examine plaintiff witnesses. Therefore, one more opportunity deserved by this defendant. Though suit is pretty old, plaintiffs have adduced their evidence of second witness on 19.06.2023. Therefore, considering over all record I do not find sufficient reason to impose cost to defendant. Valuable right in respect of immovable property of both parties involved in it. No prejudice would be caused to the plaintiffs, if application allowed. Hence, in the interest of the justice, I pass following order,

**ORDER**

1. Application is allowed no order to cost.
2. Defendant no. 1 is directed to cross-examine plaintiff witness on next date without fail.
3. Plaintiffs are directed to remain present their witness Subhash Patil on next date for cross-examination without fail.
4. Parties to take note.

Place- Ajara.  
Date- 10.09.2024.

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