

ORDER BELOW EXH- 50.

Defendant no.1 to 4 have filed this application for setting aside no evidence order passed against them. It is contention of defendants that, they have appointed counsel at Kolhapur. They failed to inform proceeding dates to their counsel. Further, defendant no.2 & 3 are resided at their matrimonial home and defendant no.4 is old age lady and frequently her medical condition is not good. On 04.11.2024, defendant no.1 was present in court, however, due to absence of their counsel, they could not adduce their evidence. Hence, in result no evidence order passed against them.

2. They further contended that, along with this application, they have adduced evidence of their witness. They having sanguine hope of success. If their application rejected, they will suffer irreparable loss.

3. Counsel for plaintiff has endorsed his say backside of the application and contended that, despite granting more than sufficient opportunity, they failed to adduce their evidence and in result no evidence order was passed against them. The reason sought by defendants is not justifiable. Hence, prayed to reject the application with cost along with prayed to impose heavy cost if court opined to allow the application.

4. I have verified the record with the help of counsels. As per record, plaintiff closed her evidence on 04.03.2024. Thereafter, since then cases pending for defendants evidence. Despite granting

sufficient opportunity, they failed to adduce their evidence. Therefore, on 04.11.2024 no evidence order was passed against them and suit posted for final argument.

5. Herein pertinent to note that, after passing evidence close order and listing suit for final argument, these defendants filed present application. It shows that, these defendants silently observing the proceeding without taking any steps. Further, as per record, these defendants filed single application on record to adjourn the matter. Therefore, before granting opportunity to lead evidence some cost need to be imposed over defendants.

6. Further as per record, plaintiff has not paid cost as per order below Exh.40 to 42. Therefore, considering her conduct she is not entitled for cost amount. In result of above discussion I pass following order,

ORDER

1. Application is allowed subject to cost of Rs. 1,000/- paid to legal aid, Ajara.
2. Defendants to take note that, after payment of cost amount evidence affidavit of their witness will be R & R.
3. Plaintiff further directed to comply the order passed below Exh. 40 to 42.
4. Parties to take note that, their failure to comply order would invite adverse inference against them.

(R. P. Thore)

J.O.Code No.MH02897
Civil Judge, Junior Division,
Ajara.

Place- Ajara.
Date- 10.03.2025.