


<p>MHKO160002782023</p> 	<p><u>Order below Exh.61 in</u> <u>R.C.S.NO.38/2023</u></p>
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1. Present application is filed by defendant for setting-aside no cross order passed on 21/10/2024. He submitted that due to ill health of his learned advocate, he failed to conduct cross-examination. The suit needs to be decided on merit, unless, he will suffer irreparable loss and prayed to allow the application.

2. Plaintiff has given his say at Exh.62 and submitted that the reasons mentioned for setting-aside no cross order are not satisfactory. Plaintiff has filed his affidavit of examination in chief on 21/06/2023. Since then, 24 dates have been lapsed. The defendant has caused unreasonable delay. Lastly, prayed to reject the application.

3. Heard both the learned advocates and perused all documents on record. It reveals that plaintiffs affidavit of examination in chief was filed on 21/06/2023. However, the same was read and recorded on 21/10/2024. Moreover, the additional affidavit of plaintiff is of dated 25/09/2024. Thus, the contentions of plaintiff that 24 dates have been lapsed since filing of affidavit do appear satisfactory. Though, the reasons mentioned in setting-aside are not supported with any medical document; the suit needs to be decided on merit and defendant needs to be given an opportunity to defend his case. Considering all the facts, this court finds to grant this application. Hence, following order -

ORDER

1. Application Exh.61 is hereby allowed.
2. No cross order passed against Defendant on 21/10/2024 is hereby set-aside subject to cost of Rs.500/- to be paid to the plaintiff till next date.

Shahuwadi
Date : 02/01/2025

(P. B. Pawar)
Civil Judge, Jr. Division,
Malkapur-Shahuwadi.