

**ORDER BELOW EXH – 55**  
(Passed On 21<sup>st</sup> day of January, 2020)

This is an application by defendant No.01 for calling back the order of forfeiting the right of cross-examination of witness. Plaintiffs have filed say and objected this application. Heard the contested arguments of both sides. Perused the record and order of forfeiting the right of cross-examination by defendant supra.

2. Considering the matter before this Court, following points arise for my determination. Decisions on them are recorded for the reasons to follow ;

<b>Points For Determination</b>	<b>Decisions</b>
1. Whether defendant supra is having reasonable and sufficient cause which avoided him from appearing & conducting the cross-examination?	...Yes.
2. What order ?	Application is allowed

**Reasons As To Point No.01 :-**

3. Firstly, it is the principle of natural justice that, no one shall be condemned unheard. However, opportunity was certainly granted to defendant supra for conducting cross-examination, which is actually not availed by him. At the same time, the reason which is mentioned in the application appears to be acceptable. This cause appears to be just and reasonable. Considering the fact that, it will be better to have the adjudication of the case on merit, rather than, passing the order without giving opportunity of cross-examination. As a matter of strict last chance I think it fit to grant opportunity to defendant supra to cross-examine witness for plaintiffs. Already this is a more than 04 years old suit and therefore, no further time will be granted for any reason to defendant supra. Therefore, I conclude

that application discloses sufficient cause which avoided defendant supra from appearing & conducting cross-examination. Resultantly, I answer point No.01 in the affirmative.

**Reasons As To Point No.02 :-**

4. In consequence to the finding supra, this application deserves to be allowed. However, much time of present case is consumed in this process and it was the default of defendant supra, which is responsible for the delay. Therefore, I am imposing the cost of Rs.200/- to be paid to witness for calling back the order supra for this delay so caused. Finally, I answer point No.02 as application is allowed and pass the following order ;

**Order**

- a. Application is allowed subject to payment of cost of **Rs.200/-** to be paid to witness.
- b. On payment of costs supra, the order of forfeiting the right of cross-examination of witness on Exh.52 is recalled and defendant supra are permitted to conduct cross-examination of witness of plaintiffs.

Panhala  
Dt.21.01.2020.

( **Ritesh R. Mawatwal** )  
C.J.J.D., Panhala