

Reg. Civil Suit No. 81 /2011

ORDER BELOW EXH. 58

Vide this application defendant has prayed for setting aside no cross order passed against him at Exh. 56.

2. Defendant avers that he was not aware about the witness affidavit filed by plaintiff. On last two occasions the suit was posted on the dates on which his advocate was absent. The advocate for defendant used to attend this court on particular days in a week. Thus, advocate for defendant could not receive the copy of witness affidavit and cross examine plaintiff. Resultantly, vide order at Exh. 56 no cross order is passed against defendant.

3. Ld. Advocate for plaintiff objected the application contending its content as false. Hence, prayed for rejection of this application. In alternate he has prayed for heavy cost as his witness comes from Mumbai.

4. Heard both sides. Perused record. Plaintiff has filed his witness affidavit on 11/08/2017 i.e. Friday. Thereafter the matter was posed on 11/09/2017 i.e. Monday. As per Ld. Advocate for defendant he used to attend the court at Radhanagari on every Tuesday. So also defendant could have attended the suit. Besides, considering nature of dispute between the parties and in order to decide the real dispute between the parties on merits it is necessary to grant an opportunity to defendant to cross examine plaintiff's witness.

5. As far as cost is concerned the address of plaintiff as mentioned in his own witness affidavit and plaint is At Post Fejiwade, Tal. Radhanagari, Dist. Kolhapur. Thus, considering fact and

circumstance of the case application deserves to be allowed.

Hence, following order :-

Order

1. Application is allowed subject to cost of Rs. 300/- payable to Legal Aid, Radhanagari.

Radhanagari.

Date : 10-10-2017.

(M. H. Shitole)
Civil Judge, Jr.Dn., Radhanagari.

I Affirm that, the contents of this P.D.F. file Order are same, word to word, as per the original Order.

Name of the Stenographer	U.S.Telang
Name of Court	Civil Judge, Junior Division & Judicial Magistrate, First Class, Radhanagari.
Date of Dictation	10/10/2017
Order signed by the P.O. On	10/10/2017
Order uploaded on	01/11/2017