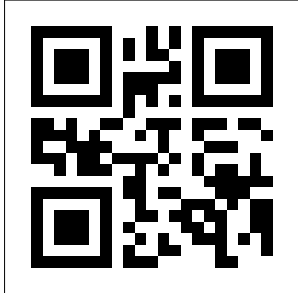


<p><u>MHKO190003762020</u></p> 	<p><u>ORDER PASSEED BELOW EXH. 35</u></p> <p><u>IN</u></p> <p><u>R.C.S. No. 94/2020</u></p> <p><u>(Vijaykumar Shamrao Bhoi Vs.</u> <u>Ramchandra Vyankappa Powar)</u></p> <p><u>(Date: 17/04/2026)</u></p>
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Defendant by filing the present application has prayed to set aside no cross orders passed against him below Exh.27, 29 and 33.

2. The defendant has submitted that he could not meet his Ld. Advocate as he was suggested rest as he met to an accident. Thus, he could not conduct cross-examination of witnesses below Exh.27, 29 and 33. In order to bring the truth on record, it is necessary to conduct their cross-examination. No prejudice would be caused to the plaintiff. Hence, he prayed to allow the application.

3. The plaintiff, by filing say (Exh.37) has strongly opposed the application. He has submitted that it's been the second time when defendant's right of cross-examination is forfeited. Despite granting opportunity at the first instance, the defendant has failed to protect his right. Hence, after approximately one and half year no cross order was passed on 05/02/2025. Hence, he prayed to reject the application.

4. Perused the record. Heard Ld. Advocates for the plaintiff and defendant. Considered the submissions.

5. The record reveals that previously no cross order was passed below Exh.27, which the defendant got set-aside. However, again he failed to conduct cross-examination of witness below Exh.27. Thus, on 05/02/2025 no cross order was passed below Exh.27 and 29. Thereafter,

the plaintiff has filed affidavit in lieu of chief examination of another witness at Exh.33, upon which also no cross order has been passed.

6. The record also reveals that the defendant was consistently absent for the said period and no application was placed on his behalf. However, considering the reason cited by him and in the interest of justice, the application deserves to be allowed subject to costs. In order to adjudicate the matter on merit, the defendant shall be given opportunity to conduct cross-examination. At the same time, it is important to note that the conduct of the defendant forms important part while deciding the quantum of costs. Hence, the following order is passed :

**ORDER**

1.	Application (Exh.35) is allowed subject to costs of Rs. 2500/- (Two Thousand and Five Hundred Rupees Only) payable to plaintiff on or before next date.
2.	Orders of no cross passed against defendant below Exh.27, 29 and 33 are set aside.
3.	Issue notice to witnesses below Exh.27, 29 and 33 to remain present on next date.

Radhanagari

Date :- 17/04/2026

Sd/-

**(N. P. Kakade)**

Jt. Civil Judge, Jr. Division,  
Radhanagari.

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