

MHLA050020892025 ORDER PASSED BELOW EXH.39, IN R.C.S.

No.372/2019

(Passed on 17th day of July, 2026)

Nagesh Vs. Bapusaheb



01. The application is filed by the plaintiff praying that, order dated 23/04/2026, whereby it was directed that, the affidavit of examination-in-chief of the plaintiff at Exh.26 shall not be read in evidence due to his failure to remain present for cross-examination, be set aside.

02. The plaintiff has contended that, on the date fixed for his cross-examination he could not remained present as he was unable to obtain leave from his employer. It is submitted that, his absence was neither intentional nor deliberate and that one opportunity may be granted in the interest of justice.

03. The defendant has opposed the application by contending that, the ground assigned by the plaintiff is not genuine and sufficient opportunities had already been granted. Hence, according to the defendant the application deserves to be rejected.

04. I heard the Ld. Advocates for both sides and perused the record.

05. It appears from the record that, the affidavit in lieu of examination-in-chief already on record Exh.26. The earlier order was passed as the plaintiff remained absent for cross-examination. The explanation offered by the plaintiff appears to be satisfactory. The consequences of refusing to read the plaintiff's evidence would seriously prejudice his case. In the interest of justice and to afford reasonable opportunity to the plaintiff to prosecute his case on

merits, the application deserves to be allowed. Hence, the following order.

ORDER

- 1) The application is allowed.
- 2) The order dated 23/04/2026 directing that the affidavit of examination-in-chief of the plaintiff at Exh.26 shall not be read in evidence is hereby set aside.

Place:- Ahmedpur
Date:- 17/07/2026

(R.D. Wabale)
Jt. Civil Judge, Sr.Dn. Ahmedpur