

Order below Exh.105 In R.C.S. No.277 of 2014

(Passed on this 09th day of September, 2025)

Ranjanabai & Ors. Vrs. Baburao & Ors.

CNR No.MHLA060008782014

This is an application filed by defendants for setting aside 'no cross examination' order passed against them.

2. Perused the application, say of the plaintiff filed overleaf and the entire record.

3. It is the averment of the defendants that Ld. Advocate for the defendants was not available due to his personal work on last date. Defendant No.1 and other defendants were present and they orally sought adjournment but this Court on 24.06.2025 passed no cross-examination order. Now, the defendants are ready to conduct cross-examination of the plaintiff. Hence, requested to allow the application.

4. The plaintiffs contended that the no cross examination order was passed by this Court prior to order dated 24.06.2025. The defendants moved application at Exh.101 for setting aside the said order which came to be allowed on 28.04.2025 subject to cost Rs.1500/- in that order this Court directed the defendants to conduct cross-examination on the same day. But the defendants failed to pay the amount of cost, so also was not ready to cross examine the plaintiff. On next dated i.e. 08.05.2025 the defendants moved application for adjournment which came to be rejected on the ground that order below Eh.101 was not complied. This conduct of the defendants show that they only want to prolong the suit. No

just reason is mentioned in the present application. The reason which is mentioned is not proper. The plaintiff remains present before the Court on each date but the defendants commit default to conduct further proceeding. The suit is more than 11 years old. Hence, requested to allow the application by saddling heavy cost.

5. Ld. Advocate for the defendants submitted that this application is on behalf of defendants No.1 to 4/3.

6. The record shows that issues are framed on 23.04.2015. Affidavit of examination in chief at Exh.23 was filed by the plaintiff on 29.09.2015 and additional of affidavit on 11.02.2025. No cross examination order was passed against the defendants on 10.03.2025 which came to be set aside vide order below Exh.101. While passing order below Exh.101, this Court gave strict directions to the defendants to conduct cross-examination on that day itself. In spite of that defendants moved adjournment application on that day which came to be allowed considering the interest of justice. Thereafter on next date i.e. 08.05.2025 again the defendants moved adjournment application at Exh.104, it came to be rejected due to non compliance of order of cost below Exh.101. Even adjournment application at Exh.104 was rejected, necessary order was not passed against the defendants. Further on next date i.e. 24.06.2025 the defendants were present but ld. Advocate for them were absent. No adjournment application was moved. The plaintiff remains present on every date from morning. Considering the circumstances again on 24.06.2025 no cross examination order came to be passed against the defendants.

Now the present application is filed on 17.07.2025. The application does not disclose proper reason for default on last dates. Although the defendants were present on 24.06.2025, ld. Advocate was absent. Consequently no proceeding could be conducted. The entire record shows that the defendants are prolonging the proceeding of the suit without reasonable and just cause. The suit is more than 11 years old. Considering all the facts, stated above in the interest of justice it is proper to grant one last opportunity to the defendants subject to cost and with strict conditions. In result, I pass the following order.

ORDER

1. The application is allowed subject to cost Rs.700/-.
2. 'No cross examination order' passed below Exh.23, is set aside.
3. The defendants No.1 to 4/3 are directed to conduct cross-examination of the plaintiff today itself and proceed with the matter expeditiously and effectively on every date.

Place: Ahmedpur.

(Swanandi D. Wadgaonkar)

Date:- 09.09.2025.

Jt. Civil Judge, J.D., Ahmedpur.