

Order below Exh.36 in RCS No.434/2019

Balaji Vs. Kundalik & Ors.

MHLA110005772019

By this application defendant Nos.2,3 and 5 have requested to set aside the no cross order dated 20/01/2023 passed against them at **Exh.16**, on the ground that on that day the relative of these defendants died and that's why they were unable to attend the Court. Plaintiff has filed his say and raised strong objections. Perused application and say. Heard both the sides. Record shows that plaintiff has adduced his evidence vide Exh.16 on 28/01/2020 and initially the no cross order came to be passed against defendant Nos.2, 3 and 5 on 13/02/2020. This no cross order dated 13/02/2020 came to be set aside by defendant Nos.2, 3 and 5 by order dated 20/09/2022. As defendant Nos.2,3 and 5 failed to conduct the cross examination though an opportunity was granted to them, the order dated 20/01/2023 came to be passed. Record is self speaking, which shows that sufficient opportunities were given to defendant Nos.2,3 and 5 to conduct the cross examination of plaintiff at Exh.16. However, they failed to conduct the cross examination. Apart from this, the grounds stated in the application is also not satisfactory because no one prevented learned advocate for defendant Nos.2, 3 and 5 to conduct the cross examination of plaintiff even though the parties were not present in the Court. I find no substance in this application. Hence, I pass following order :-

ORDER

1. Application is rejected.
2. No order as to cost.

Date : 04/07/2023

(Ashish B. Marlecha)
Civil Judge (Sr.Dn.),
Nilanga, Dist. Latur.