

Order below Exh.28.
MHLA150000415-2023

This is an application filed by defendant for setting aside no cross order passed against her. It is contended by defendant that Ld. Advocate for defendant was suffering due to leg fracture and her advocate was out of station for personal work and due to which they could not able to appear before the court for hearing and take the cross examination. Due to this reason no cross order passed against defendant. As defendant is ready to take cross examination, so opportunity should be given to her. Subject matter of suit is money and her valuable rights involved in it. Hence, considering the said facts on record, he prayed to set aside the no cross examination order dated 10.01.2024.

2. On the other hand despite giving sufficient opportunity plaintiff failed to file his say on the application hence, application is decided on merit without his say.

3. Heard Ld. for advocate for applicant. Perused application and record of the case. Considering the submission made by defendant and on perusal of the records, it is seen that the defendant has filed Written Statement at Exh.24. So, fact of causing delay is well within the knowledge of defendant. Even though considering the reasons mentioned in the application, to adjudicate the case on merits and to give fair opportunity to defendant, it will be just and proper to allow the application subject to cost. In the interest of justice chance should be given to defendant. Hence, following order.

: Order :

1. Application is allowed subject to costs of Rs. 100/- to be paid immediately to plaintiff.
2. No cross order dated 10.01.2024 is hereby set aside accordingly.
3. Defendant is directed to take cross examination of plaintiff without seeking any further adjournments.

Date :- 17/02/2025

(M. S. Luniya)
Jt. C.J.J.D. Chakur.

C E R T I F I C A T E

I affirm that the contents of this P. D.F. file order are same word for word as per original order.

Name of Steno	: M.B. Pathan
Court Name	: M.S. Luniya, Jt.C.J.J.D., Chakur.
Order Date	: 17/02/2025
Order signed by presiding officer on	: 17/02/2025
Order uploaded on	: 17/02/2025