



ORDER BELOW EXH.36

Defendant has filed the present application to set aside No cross order passed against him below Exh. 20 and 21.

2. It is contended by defendant that the plaintiff adduced his chief-examination at Exh.20 and chief-examination of PW No.2 at Exh.21. Defendant was went out of village on the date fixed for cross-examination. Therefore, he failed to conduct cross-examination of plaintiff. His advocate also failed to conduct cross for want of information from defendant. Therefore, no cross order passed against him. His advocate is present and ready to conduct the cross-examination on today. Therefore, no cross order passed against him be set aside.

3. Plaintiff filed his say behind the same application. He objected this application on the ground that the reason in this application is not correct. The defendant intentionally failed to conduct the cross. Now the matter is pending for final argument. The defendant adducing his written-statement by setting aside no written-statement order. After that no cross order passed. Therefore, he

prayed to reject this application with cost of Rs. 10,000/-.

4. Both parties and their advocate absent when called out repeatedly. Hence, I proceed without argument of both parties to avoid the delay.

5. Perused the record. It appears that suit is filed for perpetual injunction of suit property. The plaintiff filed his chief examination affidavit on 15.04.2023 and filed chief examination of P.W. No.2 on the same date. Defendant sought adjournment by application at Exh.19 on 15.04.2023. On next date i.e. 25.04.2023 and 17.06.2023 defendant was absent. Therefore, on 17.06.2023 no cross order passed against him below Exh.20. The adjournment application on record discloses that the defendant has given sufficient opportunity and the defendant is very well known about the stage of suit. Considering the opportunities given to the defendant, the reason given by the defendant is not appears justifiable. But the suit is for perpetual injunction, the right and interest of the defendant is involved in the suit property. The present suit is pending for argument of plaintiff after closing evidence of defendant. Thereafter, the defendant filed no cross set aside application below Exh.23. The said application was allowed subject to cost of Rs.500/- on 11.09.2023. In spite of that the defendant sought adjournments. Finally, the defendant failed to conduct the cross in spite of setting aside no cross order at Exh.23. Therefore, no cross order again passed on 04.11.2023

against the defendant. Then the matter posted for argument on 15.02.2024. Thereafter, the defendant filed application at Exh.29 on 01.10.2024 to set aside no written-statement order. The no written-statement order set aside on 23.10.2024. Thereafter, on 09.06.2026, the present application is filed.

6. Considering the period taken by the defendant, the intention of defendant to prolong the matter is disclosed. Considering the interest of defendant in the suit property, permission is granted to conduct the cross examination by setting aside order passed below Exh.20 and 21 subject to costs. Hence, I pass the following order-

ORDER

1. Application at **Exh.36** is allowed.
2. No cross order passed below Exh. 20 and 21 against the defendant is set aside subject to costs of Rs. 2,000/- to be paid to the plaintiff and witness Bhatta of Rs. 200/- to P.W.No.2 .
3. Upon failure to comply this order on or next date, No cross order will be continue.

(Smt. A. S. Gunjawate.)

Date : 07.07.2026. Jt. Civil Judge, Junior Division, Nilanga.
Place : Nilanga. District Latur.