


MHLA160000962013 	<u>Reg. Civil Suit No.52/2013</u> <u>Ranjit Vs. Rajendra & Ors.</u>
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ORDER BELOW EXH.63

This is application to set aside No Cross order and permission to cross examine plaintiff's witnesses.

2. Heard learned Advocate Shri. B.C. Apsingekar for defendant No.7 and 8 and learned Advocate Shri. D.N. Kamble for plaintiff at length. I have carefully gone through the record. This is 12 years old suit for partition, separate possession and cancellation of sale-deeds. The defendant No.7 and 8 failed to cross-examine PW-1 and PW-2. Therefore, the suit proceeded further without cross-examination.

3. The defendants had not filed application for adjournment. This application filed at the stage of argument. The reasons of engaged Advocate in other Court is not a good ground. It is established that they tried to prolonged the matter.

4. Considering nature of suit, its subject i.e. landed property and to decide the right and liabilities, the defendant No.7 and 8 have to grant an opportunity to cross examine witnesses in support of his defence. This is fact finding Court and bound to find the truth. For that purpose, let's to go through the settled principle of law. An opportunity is the back bone of justice and if it is refused, there is every possibility of miscarriage of justice. It is an important to mention here that, the law and rules of procedure are always hand-maid of justice and not suppose to defeat ends of justice. So, imposing heavy cost will meet the ends of justice. Therefore, I

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reached to the conclusion that, defendant No.7 and 8 have to grant an opportunity for cross-examination, subject to costs. This application is deserved to be allowed. Hence, I pass the following order.

-:: ORDER ::-

1. The application is allowed and set aside No Cross order of plaintiff's witnesses and defendant No.7 and 8 are permitted to cross examine plaintiff's witnesses subject to cost Rs.1000/- and witness allowances Rs.300/- for each witness.
2. The defendant No.1 shall pay cost to the plaintiff till next date and deposit the witness allowances in the Court, failing which, order will be automatically cancelled.
3. Both parties shall expedite the suit and should not claim undue adjournment.
4. Order dictated on computer and pronounced in open court.

Date- 13/10/2025
Deoni.

(S.A. Surjuse)
Civil Judge Junior Division,
Deoni.