

ORDER BELOW EXH.66 IN R.C.S. No.35/2026

Perused the application and say filed on behalf of the plaintiff thereon. Heard learned counsels for both sides. By way of present application defendant has prayed for setting aside 'No cross' order passed below Exh.39 dated 07/11/2022. It is further submitted by defendant that, on 07/11/2022 the present matter was kept for cross-examination of plaintiff witness. However, defendant was suffering from illness therefore he could not contact his advocate and therefore No cross order came to be passed against defendants. The right, title and interest of the defendant is involved in this matter. Therefore, it is necessary to give opportunity for cross-examination of the plaintiff witness. If the application is not allowed irreparable loss will cause to the defendant. Hence, prayed to set aside the No cross order passed below Exh. 39 on 07/11/2022.

2. On behalf of the plaintiff say has been filed and the present application is strongly opposed. It is submitted that in the year 2022 No cross order was passed against defendant. Thereafter, also witness was present time to time. Therefore, prayed for rejection of application and in alternative submitted that if the application is allowed heavy cost imposed upon defendant.

3. Perused the record it reveals that, on 07/11/2022 No cross order is passed against defendant below Exh.39 in respect of PW-1 Arjun Chavhan. However, since then plaintiff has not file application till filing of the present application. It shows that the defendants are not vigilant about their rights. Further, due to the fault of the defendant matter is pending since long. However, considering the

principle of natural justice I am inclined allow the application and give the opportunity to the defendant to cross-examine the PW-1. If the application is not allowed the defendant may suffer irreparable loss. On the contrary plaintiff can be compensated in monetary terms. Hence, I am inclined to allow the application subject to cost and pass following order:-

ORDER

1. The application is allowed subject to cost.
2. 'No cross' order passed against defendant dated 07/11/2022 is hereby set aside subject to cost of Rs.1500/- (Rupees One thousand Five Hundred only) to the plaintiff on or before next date.

(Dictated and pronounced in open Court.)

Date :06/08/2026

(S. B. Patil)
Civil Judge Senior Division, Ausa.