

**IN THE COURT OF JT. CIVIL JUDGE JR. DN., KAMPTEE, DISTRICT-  
NAGPUR.**

RCS No. 80/2015  
Agrawal Bhawan Society Vs. M/s. Motiram

**ORDER PASSED BELOW EXH. 61**  
(Dated 23<sup>rd</sup> March, 2018)

This is an application for passing no-cross order on the evidence of the plaintiff. It is strongly opposed by the defendants by filing reply below Exh.65.

2] Heard the Ld. Advocate Shri. R. I. Agrawal for the plaintiff and the Ld. Advocate Miss. M. D. Bhambhwani for the defendants.

3] The learned Advocate Shri. R. I. Agrawal for the plaintiff submitted that he has adduced the evidence of Shri. Santosh Agrawal vide Exh. 19 on 14/03/2016 and on 04/09/2017 further-chief-examination of the said witness was recorded. He further submitted that thereafter, the matter was fixed for his cross-examination. However, the defendants failed to cross-examine the plaintiff on 09/10/2017 and also on 06/11/2017. It is his contention that the defendants are prolonging the matter. Therefore, he has prayed for passing no-cross order on the evidence of the plaintiff.

4] On the other hand, the Ld. Advocate Miss. M. D. Bhambhwani for the defendants vide her reply below Exh. 65 submitted that on 09/10/2017 she was busy in the matter listed before the Hon'ble High Court and therefore, she could not attend the court and conduct the cross-examination of the said witness. She further

submitted that on 06/11/2017 she was present before the court. However, as the defendant was required to go to attend the funeral of his near relative the matter was fixed on 04/12/17. She also submitted that it was agreed between both the counsels before the court that firstly they will take the evidence in the matter which is pending on the file of Civil Judge Junior Division, Kamptee bearing no. 63/15 and later on will lead the evidence in the present case. Therefore, the Ld. Advocate for the defendants prayed for rejection of the application.

5] Perused the record. It seems that the plaintiff filed an affidavit of Shri. Santosh Agrawal vide Exh. 19 on 14/03/2016. On 04/09/2017 further-examination-in-chief of the said witness was conducted and accordingly, the matter was fixed for his cross-examination on 09/10/2017. Thereafter, the matter was fixed on 06/11/2017 for cross-examination. It is the contention of the Ld. Advocate of the plaintiff that the defendants took the date without filing an adjournment application. It is pertinent to note that perusal of roznama dated 06/11/2017 shows that the next date i.e. 04/12/2017 was given on oral request of both the counsels. This application is moved on 04/12/2017. On the same date the defendants moved an adjournment application vide Exh. 62 which was strongly opposed by the Ld. Advocate for the plaintiff. Considering the reason mentioned, the adjournment application was allowed. The reason mentioned by the Ld. Advocate for the defendants for seeking adjournment in order to conduct the cross-examination seems to be satisfactory. In order to decide the suit on merit, it is necessary to cross-examine the plaintiff. Therefore, this application being devoid of merit is liable to be rejected. Hence, I proceed to pass the following order.

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Order Below Ex. 61

**ORDER**

- i) The application (Exh.61) is hereby rejected.
- iii) Costs in cause.

Kamptee  
Date : 23/03/2018.

(Smt. S. A. Patil)  
Jt. CJJD, Kamptee.