



ORDER BELOW EXHIBIT 102 R.C.S. NO.185/2013

Shri. Jaywant Baburao Padol Vs. Shri. Vitthal Vinayak Padol

(Passed on 03/02/2025)

Present application is filed by the plaintiff to set aside the “No Cross” orders passed on 02/01/2025.

2. The Plaintiff stated that on 02/01/2025 case was posted for cross examination of the defendants witness and in the morning session plaintiff and his Advocate was present. However, in second session Ld. Advocate for the plaintiff has out of the court for his personal reasons and after that, Ld. Advocate for the plaintiff reached to the court about 3.50 p.m. then he came to know that, no cross order passed on Exh. 94. So, by this application plaintiff sought setting a side no cross order. It is necessary to examine this witness in the interest of justice. This plaintiff has not deliberately delayed the proceedings of the case. Thus, to decided case on merit it is necessary to grant an opportunity to cross examine the defendants witness, hence prayed for setting a side no cross order.
3. Defendant has filed his say on the back leaf of the said application stating therein that, the evidence affidavit of the defendant witness has been filed on 12/04/2024. This plaintiff prolonging the case for different reasons. This defendant regularly present before the court. This plaintiff deliberately prolonging case only to delay to justice to this defendant, hence prayed for reject the present application. If court opinion that, the application be allowed then cost of Rs. 5000/- be imposed upon this plaintiff.
4. Heard both sides.

5. From the perusal of the record, it seems that the plaintiff has filed present suit for partition and declaration. Defendant filed affidavit of examination in chief at exh. 94 on 07/05/2024 and plaintiff received copy of evidence on very same date. The plaintiff not cross examined the said witness hence this court pass no-cross order on 02/01/2025 at about 03.40 p.m. this plaintiff filed present application on very same date. Admittedly, there is delay to cross examined defendant witness, however considering the nature of the suit, it would be appropriate to allowed the present application to decide suit on merit. At the same time as the plaintiff has now shown the willingness to cross examine the witness therefore to decide the matter on merit once for all, it seems necessary to give one opportunity to the plaintiff to cross examine the witnesses of the defendant.
6. If the present application allowed then there is no injustice to the defendants as the suit is for partition. At the same time, it is necessary to compensate the defendant for the delay caused by the plaintiff and for the expenses incurred to witness to remain present for cross examination. Hence, I pass following order.

Order

1. Application of the Plaintiff at Exh. 102 is allowed subject to payment of cost of Rs. 1000/- to be paid to the defendant Vishwas Yashwant Padol on or before next date.
2. The plaintiff is directed to conduct cross examination on next date without fail and the defendant witness is directed to remained present for cross examination without fail as case is old one.

(Ashwini A.Pandit)

^{2nd} Joint Civil Judge, Junior Division,

Dindori

(MH03260)

Date :- 03/02/2025