

ORDER BELOW EX. 56**(Passed On 02nd February, 2022)**

1. This is an application for setting aside no cross examination and permission to cross examine applicant witness AW1 preferred by non applicants.

2. Perused the application and read the reply. I have heard Mr. D.A. Aher learned counsel for applicants and Mr. S.K. Kulkarni and Mr. V.S. Patil counsel for non applicants.

3. Mr. Patil learned counsel for non applicants submitted that applicants have filed application under Sections 12, 18, 19, 20 & 22 of The Protection of Women From Domestic Violence Act, 2005 from the non applicants/respondents. Mr. Patil submitted that on 19-11-2019 present matter was fixed for cross examination of non applicants and applicants had filed affidavit of examination in chief of applicant AW1 on record. Mr. Patil submitted that non applicants counsel failed to appear in Court on 19-11-2019 and Court was pleased to pass order of no cross examination. Mr. Patil submitted that non applicants did not deliberately avoided cross examination of AW1. Mr. Patil submitted in absence of no cross examination of applicant AW1, non applicants would suffer irreparable loss. Mr. Patil submitted in consonance to his application and prayed to permit non applicants to cross examine applicant No. 1 (AW1) and accordingly prayed to allow the instant application.

4. Mr. Aher learned counsel for applicants vehemently

opposed the instant application and submitted that the instant application at this stage is not maintainable. Mr. Aher submitted that non applicants are negligent and careless in the instant matter and presently matter is fixed for evidence of non applicants but deliberately the instant application is filed. Mr. Aher submitted that non applicant No. 1 was present but other non applicants were absent but applicant No. 1 is diligent and vigilant in contesting the instant matter hence, it proceeded accordingly. Mr. Aher submitted this Court has already granted sufficient opportunity to non applicant failed to abide by Orders of this Court passed on Ex. 47, Ex. 49 & Ex. 50 and to cross examine AW1 hence, this Court had rightly passed the order and proceeded with instant matter. Mr. Aher submitted that no cross examination order was passed by Court on 19-11-2019 and present application is filed on 23-12-2019 this itself reveals the vigilance and diligence of non applicants in contesting the present matter. Mr. Aher submitted that present application is filed on 23-12-2019 that too with ulterior motive just to harass applicants. Mr. Aher submitted in consonance to his reply and prayed to out rightly reject it with heavy cost.

5. On perusal of record it reveals that applicants had filed his affidavit of examination in chief on 19-06-2018 and since then it was kept for further examination of chief and cross examination of non applicants. The copy of affidavit of examination in chief of AW1 was received by non applicants counsel on 19-06-2018. The present matter is always kept as per request and convenience of both sides. It is pertinent to mention that no prejudice as such would be caused to applicants if they are compensated by cost. On the basis of

arguments of rival sides, I am of the opinion that instant application needs to be allowed in the interest of justice. I am inclined to pass following order.

ORDER

- 1] The application at Ex. 56 is allowed subject to payment of cost of Rs. 500/- (Five Hundred Only) to other side. On failure to deposit all costs due on non applicants in Court instant matter would proceed further in accordance with law.
- 2] Both the parties are directed to co-operate with the Court for deciding the matter since the same is of the year 2017.
- 3] Both the parties are directed not to seek frivolous adjournments or adopt dilly dallying and to assist the Court in disposing of the present matter.
- 4] Both the parties and their counsel are directed to note the observations of this Court and comply accordingly. Non applicants to cross examine applicant AW1, after payment of cost.
- 5] Matter to proceed further.

Place :- Chandwad

Date :- 02/02/2022

(N. A. Ingley)

Judicial Magistrate First Class

Chandwad

CERTIFICATE

I affirm that the contents of this PDF file are same as per original order.

Name of Stenographer	:- Sau. Gayatri K. Suryawanshi.
Court Name	:- Judicial Magistrate, F.C., Chandwad.
Date of Decision	:- 02-02-2022.
Signed by presiding officer	:- 03-02-2022.
Uploaded on	:- 03-02-2022.