

Order below Exh 40 in R.C.S. No. 74/2016

The defendants have filed present application to set aside no no-cross order, passed against them dtd. 05/10/2021 on the ground that, the defendant is old aged lady and due to Pandemic situation, she could not approach to her advocate to give the information of suit. So also, there was strike of State Transport Corporation. The suit property is immovable property. Therefore, it is necessary to conduct the cross-examination of plaintiff's witness at Exh. 21. Therefore, they prayed for setaside above no-cross order.

02] On the contrary, Ld. advocate for plaintiffs filed his say below application and opposed application on the ground that the application is false and illegal. The defendants are intentionally prolonging the matter. Therefore, he prayed for rejection of application with costs.

03] Perused the record. Heard both the Ld. advocates. They have argued in the tune of say and application. The plaintiff has filed present suit for declaration and mandatory injunction. The suit property is immovable property and there is issue of ownership and possession on the suit property. The record reveals that on 25/07/2017 the plaintiff filed evidence-affidavit at Exh.21. Thereafter, on 05/10/2021 plaintiff conducted further chief-examination of her witness below exh. 21. on the same day no-cross order against the defendants was passed. The roznama reveals that one or more ground matter was adjourned after completing chief-examination dtd. 05/10/2021. Accordingly, defendants failed to conduct cross-examination of the plaintiff's witness. Therefore, considering the nature of the suit, to give an opportunity to cross-examine the plaintiff's witness, is necessary. But, at the same time, costs must be imposed on defendants. Hence, following order.

Order

01] No cross order dtd. 05/10/2021, passed against defendant, is hereby set aside subject to costs of Rs. 500/- (Rs. Five Hundred Only) paid to the plaintiff.

02] Defendant is directed to conduct the cross-examination of plaintiff's witness on next date, positively.

Place : Kalwan.
Date : 29/03/2022.

(D.M.Gitte)
Civil Judge, Jr.Divn.,
Kalwan.