

ORDER BELOW EXH.63

(Passed on 24/12/2025)

1. Perused the record. It discloses that the plaintiff has adduced four witnesses at Exh. 26, 27, 28 and 57. As defendant No.2 failed to cross examine them, no cross order was passed against him. Now, the defendant No. 2 filed this application for setting it aside. Further after closure of evidence of the plaintiff, in spite of opportunity, the defendant No. 2 failed to adduce evidence. Hence, the evidence of defendant No. 2 was closed by passing order below Exh.1 on dated 08/08/2025. He also sought setting aside said order with permission to lead evidence.

2. Record discloses that previously vide application below Exh. 44, similar relief was claim by defendant No. 2. However, in spite of grant of such permission, he failed cross examine the witnesses. Further more, he consistently sought adjournments for taking cross examination. By imposing necessary costs, the adjournments were granted. Record further discloses that, even after closure of evidence of the plaintiff, sufficient opportunity to lead evidence was given. However, he did not take pain to adduce any evidence. It shows that, the defendant is consistently avoiding trial. Now, on the ground of medical ailment he sought setting aside such order.

3. Originally, matter is of year 2018 i.e. almost seven years old. It is pending for final argument. The Hon'ble High Court and Hon'ble District Court has directed to decide old matters at priority. In such circumstances, it is incumbent to decide it at the earliest. However, the conduct of defendant No.2 as noted above, shows negligence and dereliction to perform his part for achieving early disposal. However,

this is a civil matter pertains to valuable civil rights of the parties. In support of application, the defendant No.2 has not filed any medical record. Only on the ground of his old age and consequential illness, he sought relief under the application. It is settled principle of law that the rights of parties are required to be adjudicated on merit. Therefore, for the same and in the interest of justice an additional opportunity should be given to the defendant No.2 to cross examine the plaintiff and his witnesses as well as to lead evidence, if any. Being so, application is deserves to be allowed. However, because of delay, heavy costs must be saddled on the defendant No.2, as matter is of year 2018 and the act of defendant No.2 causes delay. Hence, following order.

ORDER.

i.	The application is allowed, subject to costs of Rs. 2500/-.
ii.	The defendant No.2 is permitted to cross examine plaintiff and his witnesses at Exh. 26, 27, 28 and 57 if any, on payment of costs as above.
iii.	The defendant No.2 is directed to deposit costs fully on or before next date, without any extention for any reason. Failure to comply will amounts to rejection of this application automatically without any specific order
iv.	On depositing costs in full, the plaintiff is directed to keep his witnesses present on its next date without fail, otherwise necessary order will be passed, against the defaulter.

Date:- 24/12/2025

(P. R. Kulkarni)
Civil Judge Senior Division
Kallam.

CERTIFICATE

I affirm that, the contents of this P.D.F. file Judgment / order are same, word to word, as per the original Judgment / order.

Name of Stenographer	Nikita Pandurang Jadhav Stenographer Marathi (L.G.)
Court	Civil Court, Senior Division, Kallam.
Date	24.12.2025
Order signed by the Presiding Officer on	24.12.2025
Order uploaded on	26.12.2025