



RCS No. 57/2015  
CNR No.MHPU120012592015

**ORDER BELOW EXH.37.**

1. Perused the application and say of opposite party.
2. The present application is filed by defendant for setting aside no cross order passed at Exh.18 on 18/02/2020. It is submitted by defendant that it is necessary to obtain important documents relating to suit proceeding from the office of the advocate which defendant could not obtain at the time of evidence of present witness. Therefore, he failed to cross-examine the present witness. Accordingly no cross order has been passed against the defendant. Hence defendant has filed this application.
3. Advocate for plaintiff has filed his say on the overleaf of the application and strongly objected the application. He submitted that reasons mentioned by the defendant are not logical and justifiable to set aside the order. Further more defendant and his advocate are continuously absent and therefore it is not proper to set aside the order. Hence he prayed for rejection of the application.
4. On perusal of record and roznama it appears that defendant and his advocate are frequently absent for hearing of the matter. But reason mentioned by the defendant are appears genuine to consider his inability to examine the witness. Considering the nature of dispute, it is necessary to decide the case on merits. Further in view of principal of natural justice it is necessary to give sufficient opportunity to other side for fair trial of dispute. Hence, in the interest of justice, it would be proper to allow this application and allow the respondent to take cross examination. But at the same time delay caused to proceedings cannot be ignored. Hence, following order:

**ORDER**

1. The application at Exh.37 is allowed.
2. No-cross order passed against defendant at Exh.18 is hereby set aside subject to cost of Rs. 500/- be given to the plaintiff.

**Date:** 02/03/2021

Sd/-  
( H.U.U.Patil )  
**2<sup>nd</sup>Jt.CJJD Bhor, Dist. Pune**

**"I affirm that the contents of this P.D.F file Order are same word for word as per original Order.**

**Name of the Steno : A.A. Shaikh**

**Court Name : Smt. H.U.U. Patil**

**2<sup>nd</sup> Jt.C.J.J.D, Bhore, Dist. Pune.**

**Date :02/03/2021**

**Order signed by presiding officer on : 02/03/2021**

**Order uploaded on :04/03/2021."**