

Reg. Civil Suit No.8 of 2016

ORDER PASSED BELOW EXH.105.

(Date : 16.02.2026)

Present application has been filed by the plaintiffs for setting aside no cross order passed below Exh.100 and permitting them to cross-examine the defendant. The application is resisted by the defendant by filing say.

2. Perused application and say. Heard both the parties. It appears that defendant no.2 had filed his examination-in-chief affidavit vide Exh.100 on 04.04.2024. Thereafter, on 01.08.2024 examination-in-chief came to be recorded and matter was posted on cross-examination by the plaintiff. Since then matter was posted for cross-examination of defendant no.2. The application filed by the plaintiffs on 20.08.2025 for adjournment to cross-examine the defendant no.2 came to be rejected. Then matter fixed on 07.10.2025 for cross-examination. On 07.10.2025, the defendant and his advocate was present, but though plaintiff was present his advocate was absent and failed to cross-examine. Therefore, no cross order came to be passed below Exh.100 against plaintiffs. The plaintiffs in the present application have stated that on fixed date their advocate gone to Delhi for Ph.D. work and the information of said fact was given to advocate of opposite party, who promise to co-operate, therefore, the application to that effect was kept on record. Despite this fact the Court has passed No Cross order below Exh.100. However, on perusal of the Exh.100 as well as Exh.104 i.e. application filed by plaintiff in person for adjournment to cross-examine the defendant no.2, it appears that, when the matter was called for cross-examination though the plaintiff was present their

advocate was not present and failed to cross-examine, therefore, no cross order came to be passed. The order passed below Exh.104 depicts that the said application was filed after passing no cross order below Exh.100. In short, the record shows that when no cross order came to be passed, no application for adjournment on behalf of plaintiff was on record. But, plaintiffs without perusing the record taken that ground which was not happened. Besides this the defendants have totally denied the statements made by the plaintiffs in their application. The reason given by the plaintiffs for absence of their advocate is not proper and lawful. The plaintiffs tried to put the blame on Court for their own default. This conduct of the plaintiffs is not proper. Therefore, the reason putforth by the plaintiffs is not acceptable. Apart from this, the suit for partition, declaration and injunction regarding immovable properties. Proprietary rights of the parties are involved in the matter. However, in order to decide the suit on merit conclusively opportunities of cross-examination needs to be given. Delay can be compensated by awarding cost. Hence, I proceed to pass the following order :

ORDER

- i. The application is allowed.
- ii. No Cross order passed below Exh.100 against plaintiffs is hereby set-aside subject to cost of Rs.400/-.

Place : Saswad.
Date : 16/02/2026.

[Tukaram P Mote]
Jt. Civil Judge Junior Division,
Saswad, Dist. Pune.

CERTIFICATE

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

Name of the Court	:: Shri. T. P. Mote, Jt. C.J.J.D. & J.M.F.C., Saswad, Dist. Pune
Name of Stenographer	:: Santosh K. Panchal, Stenographer (Grade - III),
Date of Order	:: 16.02.2026
Order signed by P.O. on	:: 16.02.2026
Order uploaded on	:: 17.02.2026