

MHPU180007282023



**ORDER BELOW EXHIBIT - 40**

(Pranali Jagtap V/s. Upasen Jagtap, etc-4)

1. This is an application filed by the respondents for setting aside “No Cross Order” passed below Exh.37 (evidence affidavit of AW-1) against them on 12/02/2025. By filing say below Exh.41, the applicant has taken strong objection.
2. Perused the application and say thereon. Heard Smt.S.A. Shaikh, learned advocate for the respondents. When called out repeatedly the applicant and her learned advocate are absent. In such circumstances, considering the nature of the proceeding I am going to decide present application on merit.
3. Smt.S.A.Shaikh, learned advocate for the respondents submitted that in the present matter on 12/02/2025 “No Cross Order” was passed below Exh.37 (upon evidence affidavit of AW-1) against the respondents. She further submitted that on that day respondent No.1 though present but his learned advocate was not present and due to which No Cross Order was passed against the respondents. She further submitted that on that day, she was suffering from serious viral as well as throat infection and due to which she could not remain present and could not take cross-examination of the applicant. The respondents have filed certificate of Dr.Dina Kazi in order to support present application. She further submitted that the respondents want to take cross-examination of AW-1. She further submitted that if permission to take cross-examine of

AW-1 is denied to the respondents then they will suffer irreparable loss. Hence, she prayed for setting aside “No Cross Order” passed below Exh.37 against the respondents on 12/02/2025.

4. On the contrary, by filing say below Exh.41, the applicant has taken objection that on 16/08/2024 the applicant has filed her evidence affidavit (Exh.37), however, within time till 12/02/2025 the respondents failed to take cross-examination and therefore, “No Cross Order” was passed against them. It is further contended in the say that intentionally the respondents remained absent and they are prolonging proceeding. They have given false reasons in the application. Hence, the applicant prayed for rejection of the application with costs and alternatively she prayed if application is allowed the respondent No.1 be directed to deposit whole interim maintenance amount.

5. Perusal of documents filed below list Exh.44, it appears that since 15/01/2025 to 20/01/2025 learned advocate of the respondents has been advised for rest by Dr.Dina Kazi. It is necessary to mention here that present application is filed by the respondents on 01/03/2025 and they are showing their willingness to take cross-examination of AW-1. Therefore, reasons mentioned in application are found bonafide and satisfactory. Moreover, though there is delay for filing present application but it does not appear to be deliberate. Considering the nature of the proceeding and willingness of the respondents to take cross-examination of AW-1, one chance can be given in the interest of justice and also for fair trial to the respondents. The delay can be compensated. Hence, the order:

-:O R D E R:-

1. Application (Exh.40) is hereby allowed subject to costs of Rs.500/- to be payable to the applicant.
2. “No Cross Order” dated 12/02/2025 is hereby set aside & permission is granted to the respondents to take cross-examination of AW-1 after deposit or payment of costs.
3. Needless to mention here that if the respondents failed to pay or deposit amount of cost of Rs. 500/- and to take cross-examination of AW-1 within 30 days from date of this order, it is presumed that the respondents are not interested to take cross-examination of AW-1 and matter will proceed further without cross-examination of AW-1.

Date : 03/04/2025.

(G.S.Badgujar)  
Judicial Magistrate F.C.  
(Court No. 4), Daund

**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.

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|------------------------------------|---|
| Name of Stenographer               | Shri. S. B. Khule (Grade III)                   |
| Name of Court                      | 4 <sup>th</sup> Jt. C.J.J.D. & J.M.F.C., Daund. |
| Date of Dictation                  | 03/04/2025.                                     |
| Judgment/Order signed by the PO on | 03/04/2025.                                     |
| Judgment /order uploaded on        | 03/04/2025.                                     |