

Nilesh Malkar
Vs.
Manohar Malkar etc.
CNR:MHSI05-0002162013

Order Below Exh. 142 In R.C.S.No. 40/2013.

Perused the application and say filed at Exh. 143. Heard both sides. Perused the record. It reveals that the plaintiff has filed the present suit for declaration and partition of the suit properties. Records reveals that my learned predecessor has framed issues at Exh. 119 on 27/08/2018. Record also reveals that the the plaintiff has filed his affidavite-in-lieu of examination at Exh. 128 on 19/11/2018. Record also reveals that on 14/10/2022 no cross order is passed against defendant Nos. 2 to 5. The said no cross order is set aside by defendant Nos. 2 to 5 by putting an application at Exh. 141 on 25/11/2022. Below Exh. 141 the directions are given to defendant No. 2 to 5 and their advocate for taking cross-examination on the same date. But, advocate for the defendant Nos. 2 to 5 Shri. R.S.Gavhankar remain absent when repeatedly called out in afternoon session. Also, on the same date no adjournment application is filed by the defendant Nos. 2 to 5 or their advocate for taking remaining cross-examination. Hence, no cross order was passed against defendant Nos. 2 to 5 on 25/11/2022. Matter is quite old. Reasons mentioned in the application not seems just. But, in order to adjudicate the matter on merit, it is necessary to give opportunity to defendant Nos. 2 to 5 for taking cross-examination of the plaintiff. At the same time, it is necessary to compensate the plaintiff who was present on previous date. Hence, in the interest of justice, I pass the following order -

ORDER

1. The application is allowed subject to cost of Rs.500/- (Rs. Five Hundred only). Cost amount be paid to the plaintiff by defendant Nos. 2 to 5

collectively on or before next date without fail.

2. After compliance of the cost amount advocate for defendant Nos. 2 to 5 is permitted to take cross-examination of the plaintiff.
3. No cross order dated 25/11/2022 is hereby set aside.

(Pronounced and dictated in the open Court.)

(K.K.Patil)

Date : 10/03/2023.

Civil Judge, Jr.Dn., Vengurla.