

Order passed below Exh. 115 in R.C.S. No. 25/2009

Perused the application and say. Heard both sides. Plaintiff has prayed for setting aside no cross order passed against her. As per plaintiff she was unable to appear before Court on fix date for cross examination due to her old age and due to her illness as well as due to death of her husband. Application is strongly opposed by defendants on ground that plaintiff has not produced any documentary evidence for support of her contention in the application and application is false. Hence it is liable to be rejected with costs.

02. Perused the record. The dispute between the parties reveals that civil rights of parties over the immovable property are involved in the present case. Considering the said fact, an opportunity needs to be given to the plaintiff to put forth her case for which her cross examination by defendants is necessary for proper adjudication of dispute between the parties. At the same time the fact that delay is caused by plaintiff in conclusion of trial cannot be ignored for which the defendants needs to be compensated by saddling costs on plaintiff. Hence I hold that application deserves to be allowed. Hence I passed following order.

Order

1. Application Exh.No.115 is allowed subject to costs of Rs. 700/- to be paid by plaintiff to the defendants as condition precedent for setting aside order passed against her.

2. Plaintiff to remain present on each and every date for cross examination till conclusion of her evidence without fail. Failure by plaintiff to do so shall follow consequential orders.

Date: 29/09/2016

Sd/-
(P.K.Nardele)
Civil Judge, Jr. Dn. Malvan.