

(CNR No.:- MHSN02-001074-2012)
SPECIAL CIVIL SUIT No.:-92/2012
(Order below Exhibit 161)

Read the application and say. Heard learned advocates for both parties.

2. According to defendant Nos.1,2 and 5, the suit is posted for cross-examination of the plaintiff no.2 and Plaintiffs' witness Nuruddin Kazi. But, due to their previous advocate has not conducted the trial, he was not present for cross-examination. Therefore, no-cross order is passed on 21/07/2018 and 27.09.2018. He has withdrawn his Vakilpatra. Hence, this application to set aside no-cross order.

3. The application is resisted by the plaintiffs by filing say vide Exh.163. The plaintiffs submitted that, reason mentioned in the application is not proper. They pray for rejection of the application. The plaintiffs further submitted that, the application may be allowed subject to costs.

4. The plaintiffs filed the suit for specific performance and perpetual injunction. The suit is six years old. Record shows that defendants have not co-operated their previous advocate, therefore he has withdraw his Vakilpatra. From the no instruction pursis filed by Shri.V.K.More, advocate, Sangi it reveals that, inspite of institutions given by the advocate

defendants have not given information to the advocate. Therefore, reason mentioned in the application are not proper.

5. The plaintiffs filed suit for specific performance. The cross-examination of the witnesses is necessary to find out the truth. Considering the nature of the suit and to avoid multiplicity of the proceeding and in order to give an opportunity of fair trial and to meet the end of justice, it becomes proper to allow the application.

6. The application has been filed by the defendants at belated stage. Thus, for delay caused to the act of the defendants should be compensated by way of the cost. Hence, I pass the following order;

ORDER

No cross order passed is hereby set aside and the defendant No.1, 2 and 6 is permitted to cross-examine the Plaintiff no.2 and witness Nuruddin Kazi subject to payment of costs of Rs.5,000/- (Rupees Five Thousand only). Out of it Rs.2,000/- (Rupees Two Thousand only) be paid to the plaintiff and Rs.3,000/- (Rupees Three Thousand only) be paid to the District Legal Services Authority.

Sangli.
Date:-02/11/2018

Sd/-
(V. R. Patil)
IIIrd Joint Civil Judge Senior Division,
Sangli.