

MH0070004202016



ORDER ON EXH. 44 IN R.C.S. No. 346/2016
(Passed on 21st April 2026)

1. This application is filed by the defendants No.1, 2, 3 and 5 to set aside no cross order passed against them below Exh.34. The plaintiff has filed say on the same application. Heard both sides. Perused the record.
2. It is submitted by defendants No.1, 2, 3 and 5 that plaintiff has filed affidavit of examination-in-chief vide Exh.34 on 17.10.2025. They could not obtain necessary documents within time. Their Advocate was busy in another Court, therefore, he was unable to remain present before Court. Therefore, adverse order was passed against them on 09.12.2025. Their rights are involved in the subject matter of the suit. Therefore, it is necessary for defendants to conduct cross-examination. Thus, they prayed to allow the application.
3. The plaintiff objected the application stating that the application is false and frivolous. The reason is vague. They filed present application to prolong the matter. Therefore, he prayed to reject the application with costs.
4. After perusal of record it can be seen that affidavit of examination-in-chief is filed on 17.10.2025 vide Exh.34. Thereafter, on 09.12.2025 documentary evidence of the plaintiff has been

marked in the evidence. As defendants and their Advocate was absent, no cross order is passed against them. The reason mentioned for setting-aside adverse order passed against them is that their Advocate was busy in another Court and could not remain present before this Court. The reason mentioned is not satisfactory and tenable. Advocate being busy in another Court is not the ground to set-aside any order.

5. The suit is filed for recovery of encroached area and perpetual injunction against the defendants. It is the case of plaintiff that defendants have encroached into his land. Defendants have taken defence that it is their land and they have not encroached. Thus, rights of defendants are directly involved in the subject matter. If opportunity is not given to defendants to conduct cross-examination, it will give rise to multiplicity of the proceedings. If the suit is contested, the rights of the parties and their subject matter will be adjudicated upon merit and finally. Therefore, in the interest of justice it will be appropriate to give opportunity to defendants. However, due to inaction on the part of defendants No.1, 2, 3 and 5 proceeding is protracted. It needs to be compensated in terms of costs. Hence, following order is passed.

ORDER

1. The application (Exh.44) is allowed.
2. No cross order passed below Exh.34 dated 09.12.2025 is set aside subject to payment of costs of Rs.500/- (Rs. Five hundreds Only) payable to the plaintiff on or before next date.

3. Defendants shall conduct cross-examination of plaintiff on the next date or today without fail.
4. Both parties to note.

Pandharpur.
Date : 21.04.2026.

(Smt. S.S.Raul)
Jt. Civil Judge, Junior Division,
Pandharpur, Dist.- Solapur.

Certificate

I affirm that, the contents of this PDF file Order/Judgment are same word to word, as per original Order/Judgment.

Name of Stenographer	:-	D.S.Landage (Grade-III)
Court	:-	Jt. Civil Court,J.D., Pandharpur.
Date	:-	21.04.2026.
Judgment/Order signed by the Presiding Officer	:-	21.04.2026.
Judgment/Order uploaded on	:-	21.04.2026.