

ORDER BELOW EXHIBIT-78

Defendant Nos. 1 and 2 have filed this application to set aside no cross orders passed against them. Succinctly, they have submitted that, this case was fixed for cross-examination of the plaintiff's witness on 14.03.2024. On that date, their Advocate was out of station. Inadvertently, application for adjournment was not filed. Therefore, they could not take cross-examination of the plaintiff's witness and hence, no cross order was passed against them on 14.03.2024. They are ready to take cross-examination. With such submissions, they have prayed to allow their application.

02. The plaintiff has given his say on the application. He has submitted that, he filed his affidavit in lieu of chief-in-examination on 21.12.2023. Defendant Nos. 5 and 6 took his cross-examination on 14.03.2024. The defendant was present. He did not file any application for adjournment. Till today, defendant Nos. 1 and 2 did not attempt to take his cross-examination. He also produced his independent witness vide exhibit-75 on 23/08/2024. But, defendant Nos. 1 and 2 did not take steps and when today the matter is fixed for cross-examination of his witness, defendant Nos. 1 & 2 have filed this application without any due reason. With such submissions, he has prayed to reject the application with costs of Rs. 2,000/-.

03. I have heard learned Advocates for the plaintiff. When called, learned Advocate for defendant Nos. 1 and 2 is absent. I have perused the record of the case. It appears that, the plaintiff filed his affidavit in lieu of his chief-in-examination vide exhibit-56 on 08.02.2024. Thereafter, after 1 date on 14.03.2024, defendant Nos. 5 and 6 took his cross-examination. But, learned Advocates for defendant Nos. 1 to 4 were absent. Therefore, their cross-examination was closed. After 14.03.2024, this is the 10th date. In between the period defendant Nos. 1 and 2 did not apply to set aside no cross order passed against them and when the matter is fixed for cross-examination of the plaintiff's witness, they have filed this application. Not only this, they have also filed an application for grant of adjournment for taking cross-

examination of the plaintiff's witness. This shows that, they are prolonging this matter.

04. However, in the interest of justice, one last opportunity can be granted to defendant Nos. 1 and 2 to take cross-examination of the plaintiff. At the same time, it is also just and proper to impose costs on defendant Nos. 1 and 2 for the delay caused by them and it is also necessary to issue certain directions. In the result, I pass following order :-

ORDER

The application at exhibit-78 is allowed.

02. Permission is granted to defendant Nos. 1 and 2 to take cross-examination of the plaintiff subject to payment of costs of Rs. 1,500/- to the plaintiff till next date.
03. On the next date, the plaintiff shall remain present before the Court and also produce his witness for the purpose of cross-examination and defendant Nos. 1 and 2 shall without fail cross-examine them.
04. No adjournment shall be granted to any of the parties.
05. On failure of defendant Nos. 1 and 2 to pay costs as directed and to take cross-examination of the plaintiff and his witness, permission granted to them shall be deemed to be rejected.
06. Both the parties shall remain present on the next date.

Date : 20.09.2024

(A. P. Khanorkar),
Civil Judge, Senior Division, Barshi.

CERTIFICATE

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

Name of the Stenographer	: S. N. Chilka
Court	: Civil Court Senior Division, Barshi.
Judgment / Order signed by the P. O. on	: 20.09.2024
Judgment / Order uploaded on	: 23.09.2024