

**ORDER BELOW EXHIBIT-84**

Defendant No. 3 has filed this application to set aside no cross order passed against him and grant him permission to take cross-examination of the plaintiff and PW Mahadeo Shinde. He has submitted that the plaintiff has filed his affidavit in lieu of chief-in-examination at exhibit-55. It was necessary for him to take his cross-examination. But he did not take his cross-examination. Therefore, the Court passed no cross order against him on 14.03.2024. Also, his side to take cross-examination of PW Mahadeo Shinde was closed on 08.10.2024. If permission as prayed is not granted, great irreparable loss will be caused to him. By making such submission, he has prayed to allow the application.

02. On behalf of the plaintiff, his learned Advocate has given his say on the application. Succinctly, he has submitted that despite opportunities were given from time to time, defendant No. 3 did not take cross-examination of the plaintiff. Defendant No. 3 or his learned Advocate never attend the Court. No reason has been assigned in the application. Today also, defendant No. 3 and his learned Advocate are absent. The plaintiff's evidence is closed. Evidence of defendant Nos. 1 and 2 is also closed and the case is fixed for evidence of defendant Nos. 5 and 6. It becomes clear that defendant No. 3 is intending to waste the time of the Court. By making such submission, he has prayed to reject the application with costs of Rs. 2,000/- to be payable to the plaintiff.

03. I have heard learned Advocate for the plaintiff. When called, defendant No. 3 and his learned Advocate are absent. I have perused the record of the case. It appears that in this case the issues were framed vide exhibit-52 on 14.09.2023. Thereafter, the plaintiff adduced his evidence and closed his evidence by filing Pursis at exhibit-80 on 02.01.2025. It also

appears that sufficient time and opportunity was given to defendant No. 3 to take cross-examination of the plaintiff and his witness PW-2 Mahadeo Shinde. This being the position, at the time of cross-examination of the plaintiff and his witness PW-2 Mahadeo Shinde, defendant No. 3 and his learned Advocate were absent. Therefore, side of defendant No. 3 to take cross-examination of the plaintiff and his witness PW-2 Mahadeo Shinde was closed. It is thereafter defendant No. 3 belatedly filed this application when the case is fixed for evidence of defendant Nos. 5 and 6. In this way, clearly it appears that defendant No. 3 is not serious and prompt enough. However, considering the nature of the case and the facts and circumstances of the case, one opportunity can be granted to him to take cross-examination of the plaintiff and his witness PW-2 Mahadeo Shinde. At the same time, it is also just and proper to impose costs on defendant No. 3 for his belated action. Hence, I pass following order:-

### **ORDER**

Permission is granted to defendant No. 3 to take cross-examination of the plaintiff and his witness PW-2 Mahadeo Shinde subject to payment of costs of Rs. 1,500/- to the plaintiff till next date.

02. On the next date the plaintiff and his witness PW-2 Mahadeo Shinde shall remain present in the Court and defendant No. 3 shall without fail take their cross-examination.
03. Hereinafter no adjournment shall be granted to defendant No. 3 to take cross-examination of the plaintiff and his witness PW-2 Mahadeo Shinde unless he is prevented by unexceptional circumstances.

04. On failure of defendant No. 3 to comply this order, permission granted to him to take cross-examination of the plaintiff and PW-2 Mahadeo Shinde shall be deemed to be rejected.

Date : 11.04.2025

(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, Stenographer Grade-2.  
Court : Civil Court Senior Division, Barshi.  
Judgment / Order signed by the P. O. on : 11.04.2025  
Judgment / Order uploaded on : 16.04.2025