

ORDER BELOW EXH. NO. 81 IN R.C.S. No. 61/2005
(Arun Nanware and Ors. Vs. Waman Nanware and Ors.)

The present application has been filed by plaintiff for setting-aside no cross order passed against him. Called say of defendants.

[2] Perused application and say filed by defendants. Sum and substance of application is that, he was unknown of the suit, he has not received notice of the Court, he is just came to know about suit from his relatives, he is appearing before Court suo-motu. Hence, he prayed for setting aside 'no cross' order passed against him.

[3] Defendant No. 1 has filed his say contending that, present plaintiff has received notice of suit in January, 2024. Therefore, his contention of not having knowledge of the suit is false. Hence, prayed for rejecting the application with costs.

[4] On perusal of record, it is revealed that, this suit is filed in the year 2005. It has been remanded back by Hon'ble District Court, Pandharpur by making it time bound. Prima-facie, it is revealed that, neither plaintiff, nor his advocate were present before the Court at the time of cross-examination of defendant No. 1 and his witness. Hence, no cross order has been passed against him. The case is near about 19 years old. Therefore and being time bound, its early disposal is necessary. Now, plaintiff is ready and willing to cross-examine the witnesses. If the application is rejected, plaintiff will be unable to lead his case. At the other hand, if permission is granted to cross-examine, defendant No. 1 and his witness will not suffer any loss except delay. Everyone should get the chance to lead his case. In the interest of justice, a fair chance, an opportunity should be given to plaintiff. But, as it will cause delay in proceeding as well as will cause physical and economic sufferance to the witnesses, some cost should be ordered to compensate, the delay caused by plaintiff. Hence, in the backdrop of above discussion, I proceed to pass the following order :

ORDER

- 1] Application is allowed, subject to cost of Rs.2000/- (Rs. Two Thousand Only). The cost be given to defendant No. 1 till next date.
- 2] No cross order dated 01.08.2024 will be set aside, after depositing of costs by plaintiff.
- 3] On depositing cost, plaintiff will be allowed to cross-examine defendant No. 1 and his witness.
- 4] Both the parties are directed to expedite the proceeding of the suit.

Date : 03/08/2024.

(Smt. S.N. Gangwal-Shah)
Civil Judge J.D., Mangalwedha.

CERTIFICATE

I affirm that the contents of this P.D.F. file Order is same word to word, as per the original Order.

Name of the Stenographer	:	Priyank Tukaram Jadhav, Stenographer Grade III
Name of the Court	:	Civil Judge Junior Division, Mangalwedha, Dist. Solapur.
Order decided on	:	03.08.2024.
Order signed by P.O	:	03.08.2024.
Order uploaded on	:	03.08.2024.