

ORDER BELOW EXH.35
(Decided on 24/11/2025)

Present application has been filed by defendant No.1 thereby requesting to set aside 'no cross' order passed against him.

02. Perused application. Heard learned advocates for plaintiff and defendant.

03. Learned advocate for defendant No.1 has submitted that, plaintiff has filed instant suit for recovery of money. On 18/09/2025, the plaintiff has filed his examination-in-chief affidavit. Thereafter, on 13/11/2025, the plaintiff has closed his evidence by filing purshis below Exh.34. Now, the suit is pending for evidence. On 13/11/2025, defendant No.1 had received examination-in-chief affidavit. However, defendant No.1 failed to take cross examination of the plaintiff. Therefore, the court has passed no cross order against the defendant No.1. Therefore, it is necessary to set aside the said order and to permit her to take cross examination of the plaintiff. No prejudice will be caused to the plaintiff, if application is allowed. Hence, it is prayed that no cross order passed against defendant No.1 be set-aside and she may be permitted to take cross examination of the plaintiff.

04. The plaintiff has filed his say overleaf of application. The plaintiff has opposed the application filed by defendant No.1. It is the contention of plaintiff that, the plaintiff has filed his examination-in-chief affidavit on 18/09/2025 and defendant

No.1 appear in this suit on 12/09/2025. In spite of appearance of defendant No.1, she did not file her written statement to this suit. Therefore, the suit is proceeded without the say of defendant No.1. Defendant No.1 cannot cross-examine the plaintiff, unless the filing of her written statement in the suit. Hence, plaintiff prayed for rejection of application with cost.

05. Perused roznama and documents on record. It appears that defendant No.1 is failed to take cross-examination of the plaintiff. Therefore, the court has passed no cross order against the defendant No.1. On perusal of entire record it reveals that, the suit is for recovery of money. Defendant No.1 failed to take cross-examination of the plaintiff. Plaintiff opposed the application on the ground that, defendant No.1 did not file her written statement in the suit. Therefore, the present application is not tenable and liable to be rejected. However, it is the principle of natural justice that, the matter is required to be decided on merit by giving opportunity to both sides. Further, opportunity of cross-examination on law point is available to defendant No.1, even if, she has not filed her written statement. Therefore, an opportunity must be given to the defendant No.1 to cross-examine the plaintiff, otherwise she will suffer from injustice. So also, considering the nature of reliefs claimed by the plaintiff, it is necessary to permit the defendant No.1 to take cross-examination of the plaintiff. Thus, I think it just and proper to allow this application. At the same time, it is also necessary to impose some realistic costs on the defendant No.1 to compensate the inconvenience suffered by plaintiff due to negligence on the part of defendant No.1. Therefore, it needs to

be compensated in terms of cost. Hence, the following order.

ORDER

- 1) The application at Exh.35 is allowed.
- 2) The 'no cross' order passed against defendant No.1 is hereby set aside.
- 3) The defendant No.1 is permitted to take cross examination of the plaintiff on law point only on next date effectively.

Date :- 24/11/2025.
Place :- Mohol.

(Smt. P. S. Govekar)
Civil Judge Junior Division,
Mohol.

CERTIFICATE

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

Name of Stenographer	: A.S. Bakale
Court	: Civil Judge Jr. Division, Mohol.
Date	: 24/11/2025
Judgment signed by the Presiding Officer	: 24/11/2025
Judgment Uploaded on	: 25/11/2025