

Sp. C. S. No. 26/2014

M/s. Ratan Metals, Thr. its Prop.
Mr. Vinod Manilal Oswal ----- **Plaintiff**
V/s.
M/s. Yash Enterprises Thr. its Prop.
Mrs. Rekha Hrudaynath Parte & Ors. ----- **Defendants**

Order Below Exh. 44

1. Defendant has filed this application for setting aside 'No evidence' order passed on 06/07/2017 against him.

2. The plaintiff has given say on this application and has taken strong objection.

3. It is submitted by advocate for defendant that due to rain and travel, the defendant could not remain present for leading evidence. If the defendant is not allowed to lead evidence, then it will cause harm to him. Advocate for the plaintiff submitted that reason of rain is falsely stated. The defendant is deliberately causing delay to the suit. The defendant did not remain present for mediation and thus delaying the proceeding.

4. On 06/07/2017 the defendant and advocate were absent and so 'No evidence' order was passed. But, in afternoon session this application was filed.

5. The defendant also failed to pay cost imposed on him by order on Exh. 39. Thus, he did not take cross-examination. Record shows that enough opportunity was given to the defendant. The suit is for recovery of huge amount. So, in the interest of justice, one more and last opportunity needs to be given to the defendant. But, considering the strong objection and the record, the cost needs to be imposed on defendant while granting him the opportunity. Hence, I pass the order.

ORDER

1. ' No Evidence ' order passed on Exh. 1 dt. 06/07/2017 is set aside on the cost of Rs. 1000/- payable to the plaintiff. .
(pronounced in open Court)

Sd/-XX

Dt. 28/07/2017
Karad.

(P. A. Savadikar)
Civil Judge Sr. Dn. Karad.