



ORDER BELOW EXH. 144 IN R.C.S. NO. 154 OF 2012
Parubai Rattu Mane deceased through LRs. Vs. Shevantabai Mahadev
Mane deceased through LRs. & Ors.

This is an application filed by the defendant No.1(2) as per Order 47, Rule 1 of C.P.C.

2. It is averred in the application that defendant was unable to appear before this Court, because his parents were ill. Also, he was unable to meet lawyer and provide information to proceed the matter. Due to this, Court has passed order from time to time against the defendant.

3. After demise of his father, he appeared before the Court & filed an application at Exh.138 to set aside orders passed against him. That application was rejected on merit. Present application is filed to review, order passed below Exh.138, on the ground that plaintiffs have admitted the fact of demise of defendant's father.

4. Plaintiff has filed his say & raised strong objection. It is submitted that, there is no apparent error on the face of the record. Present application is filed only to prolong the matter. Order below Exh.138 is a reasoned order; present application is not tenable; hence, prayed for its rejection.

5. Perused the application, say and the record. Matter was for cross-examination of the plaintiff. On 06.05.2025 Ld. Advocate for the defendant has filed on the record an application and submitted that, inspite of intimation defendant was absent and failed to provide necessary information to conduct the cross-examination. Hence, in the interest of justice notice be issued through Court motion. Accordingly, notice was issued to defendant No.1(2). In spite of service of notice defendant was absent till 08.09.2025. On 08.09.2025 adjournment application was filed. Adjournment was granted as a last chance. In spite of this order defendant and Ld. Advocate absent. Therefore, no cross order was passed.

6. On 28.10.2025 defendant No.1(2) has filed an application to set aside no cross order. To decide matter on merit the application was allowed subject to cost of Rs.500/- paid to each witness. On the same day, again adjournment application was filed. That application was also allowed subject to cost of Rs.500/-. In spite of passing those orders, defendants failed to comply as per the order and remained absent. On 07.01.2026 Ld. Advocate for defendant filed an application to issue notice to defendant, as defendants were not providing necessary information to proceed the matter. That application was rejected with detail reasoned order. After that, defendant and Ld. Advocate remained absent. Therefore, appropriate orders were passed below Exh.01 and defence evidence was closed on 06.02.2026. Matter was posted for final argument. On 08.05.2026 at Exh.138 Ld. Advocate for defendant filed an application to set aside no cross order passed below Exh.108,110,113,114,119 & 120. Plaintiff raised strong objection to this application. Application below

Exh.138 was rejected with detail & reasoned order.

7. It is the contention of the defendant that his parents were sick. Therefore, he could not attend the Court. To support this contention there is no documentary evidence on the record. If defendant was unable to attend the Court, then he has an option to appoint the Power of Attorney. There is no documentary evidence on record from which it can be assumed that defendant was willing to proceed the matter bona fide. Again present application is filed without any documentary evidence. To avail the remedy of review there must be an error apparent on the face of the record. To support this contention Ld. Advocate for plaintiff filed on record following ruling of Hon'ble Supreme Court-

Smt. Meera Bhanja V. Smt.Nirmala Kumari Choudhury, AIR 1995 Supreme Court 455.

As per the provision of O.47 R.1 review application can be allowed in following circumstances-

- a) from the discovery of new and important matters or evidence which after the exercise of due diligence was not within the knowledge of the applicant;
- b) such important matter or evidence could not be produced by the applicant at the time when the decree was passed or order made;
- c) an account of some mistake or error apparent on the face of the record or any other sufficient reason.

8. In the present matter, defendant has not furnished any new information, evidence or documents. Hence, there was no apparent error on the face of the record while passing order below

Exh.138. In such circumstances, present application is not tenable. It deserves to be rejected. Hence, I pass the following order-

ORDER

Application is rejected.

Place : Karad

Date : 29.07.2026

(J.J.Mane)

4th Jt. Civil Judge Sr. Dn., Karad.