

CNR No.MHST-0500-0444-2007

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, KARAD
ORDER BELOW EXH.147
IN
R.C.S. NO. 83 OF 2007

Shri. Mahesh Krushnrao Nikam	...Plaintiff.
<i>Versus</i>	
1. Smt. Akkatai Sopan Hadgire & Ors.	...Defendants.

Advocate Shri. S. M. Salunkhe for the plaintiff.

AGP Shri. N. B. Bamane for defendant Nos.5 and 6.

Coram : S. B. Todkar,
C.J.S.D. Karad.
Date : 02/05/2025

ORAL ORDER :

This is an application filed by defendant Nos.5 and 6 for setting aside no cross order passed against them below Exh.123.

2. Perused the application and detailed say at Exh.155 given by Ld. advocate for the plaintiff. Heard Ld advocate for the both side.

3. As per the contents of the present application defendant was ill and is illiterate. For want of necessary documents he failed to give necessary information and documents to the advocate therefore advocate could not conduct cross of the witness. That is not intentional. For the just decision of suit on merit it is necessary to give an opportunity to the defendants to conduct the cross examination of plaintiff's witnesses. But, no cross orders are passed against the defendants therefore, it is necessary to set aside that orders. Hence, the application.

4. It appears from the record that the plaintiff has filed present suit against defendants for perpetual injunction on the grounds specifically mentioned in the plaint. After service of writ of summons defendants appeared and filed their written statements. My Ld. Predecessor framed issues. Thereafter, plaintiff and defendants examined their witnesses. Defendants have filed examination in chief of Jaywant Pandurang Thorat as D.W.2 at Exh.132 on 24/10/2024. Thereafter, inspite of getting sufficient opportunities opposite party failed to take his cross examination within time therefore, no cross order passed against them on 06/01/2025. I have gone through the framed issues. It appears that burden to prove issue Nos.1 and 2 cast on the plaintiff and burden to prove issue Nos.3 and 4 cast on the defendants. Defendant Nos.5 and 6 have on oath at Exh.148 given sufficient reasons for not conducting the cross examination within time. Considering the nature of suit, rival contentions of the parties, framed issues, burden to prove issues it is necessary to give both the parties to plead and prove their case by filing necessary evidence and conducting cross-examination. Defendant Nos.5 and 6 have made out case for relief claimed in the present application. Therefore, application deserves to be allowed. Hence, I proceed to pass the following order.

ORDER

1. Application Exh.147 is allowed.
2. No cross orders passed below Exh.132 is hereby set asides on condition to proceed the matter on next date without fail.

Date : 02/05/2025.

[S. B. Todkar]
Civil Judge, S.D.Karad.