



**R. C. S. No. 55/2016**  
**Madan Patil and Ors.**  
**-Vs.-**  
**Mohan Patil and Ors.**

**ORDER BELOW EXH. 79**

(Passed on this 20<sup>th</sup> day of March, 2024)

...

This is an application on behalf of defendants No. 12 to 15 for setting aside no cross-examination order passed below Exh. 49 on 12.01.2024.

2. Read the application and say thereon. Heard the learned Counsels for the parties at considerable length.

3. The learned counsel for defendants No. 12 to 15 submitted that the suit was fixed for cross-examination of plaintiff No. 1 on 12.01.2024. But, he was busy in the Court of the Collector. Therefore, he could not attend the instant suit and conducted cross-examination of plaintiff No. 1. If this application is not allowed, defendants No. 12 to 15 will suffer irreparable loss. Hence, this application.

4. On the contrary, the learned counsel for the plaintiffs submitted that plaintiff No. 1 was present on given date for cross-examination. But, defendants No. 12 to 15 did not file an application to adjourn the suit for same stage. Hence, submitted for rejection of this application.

5. Perused the record. Plaintiffs have filed an affidavit of examination-in-chief of plaintiff No. 1 at Exh. 49 on 26.08.2022. He has completed his further examination-in-chief and cross-examination of defendants No. 1 to 11 on 02.12.2022. Defendants No. 12 to 15 cross-

examined to plaintiff No. 1 partly on 27.06.2023. The suit was fixed for cross-examination of plaintiff No. 1 on behalf of defendants No. 12 to 15 on 12.01.2024. But, defendants No. 12 to 15 and their learned counsel were absent on 12.01.2024 and there was no application on their behalf. Therefore, no cross-examination order came to be passed against them.

6. By filing this application, they have shown interest to cross-examine plaintiff No. 1. They have shown reason of busy of their learned counsel in the proceeding in the another Court i. e. the Collector. But, the counsel busy in another Court is not just and proper reason. However, one more chance needs to be given to defendants No. 12 to 15 for completing cross-examination of plaintiff No. 1. If this application is allowed, no prejudice will be caused to other side. On the contrary, if this application is rejected, it will cause hardship to defendants No. 12 to 15 to prover their defence. In such circumstances, the instant application needs to be allowed. But at the same time, some costs needs to be imposed on defendants No. 12 to 15 for sufferance of plaintiffs. Hence, I pass the following order :-

**ORDER**

1. The application is allowed subject to costs of Rs. 200/- (Rupees Two Hundred only).
2. Defendants No. 12 to 15 are permitted to cross-examine plaintiff No. 1 by setting aside no cross-examination order passed below Exh. 49 on 12.01.2024.
3. Costs is condition precedent.

(Typed and pronounced in open Court.)

Palghar.  
Date :- 20.03.2024

Sd/-  
(Mahendra K. Sorte)  
Jt. Civil Judge, Jr. Dn.,  
Palghar.