



**R. C. S. No. 104/2017,
Ramatulsi Nalmati
-Vs.-
Sudhir Menon**

ORDER BELOW EXH. 21

(Passed on this 02nd day of December, 2022)

This is an application for dismissal of the suit.

2. Read the application and say thereon.
3. Heard the learned counsels for the parties at considerable length.
4. Perused the record. Issues are framed on 11.02.2019. But, the plaintiff failed to lead her evidence despite of ample opportunities. Therefore, the defendant has moved this application and sought relief for dismissal of the suit. The plaintiff has given reason of illness of her counsel for this application. But, she failed to file medical evidence on record to fortify her contention. Therefore, the reason given for this application is not just and proper. However, the learned counsel for the plaintiff submitted that the plaintiff is ready and willing to file an affidavit of her examination-in-chief today itself. No purpose would be served in disposing the suit without merit. For just decision of the suit on merit, evidence of the parties should be on record. Considering the submission of the learned counsel of the plaintiff, one more chance needs to be given to her to lead her evidence. If this application is allowed, no prejudice will be caused to the defendant. He has every right to cross-examine the plaintiff and her witnesses, if any. But, some costs needs to be imposed on the plaintiff for sufferance of the defendant. Hence, I pass following order :

ORDER

1. The application is rejected.
2. The plaintiff is directed to pay costs of Rs. 200/- to the defendant for his sufferance.
3. Costs is condition precedent.
4. The plaintiff is directed to lead her evidence without seeking unnecessary adjournment.

(Dictated and pronounced in open Court.)

Palghar.

Date :- 02.12.2022.

(Mahendra K. Sorte)
2nd Jt. Civil Judge, Jr. Dn.,
Palghar.