

Order Below Exh.24
(Passed on 10.04.2026)

This application is filed by the defendant for setting aside “No Cross” order dated 03/02/2025 passed against the defendant and for granting permission to cross-examine the plaintiff.

2. It is contended that, the plaintiff No.2 has filed affidavit of examination-in-chief at Exh.14 on 21/08/2024. However, due to unavoidable circumstances such as ill-health after Covid-19, financial difficulties and lack of communication with advocate, the defendant could not remain present before the Court and could not give proper instructions for cross-examination. It is further contended that his absence was neither intentional nor deliberate. Therefore, the defendant has prayed to set aside the “No Cross” order and to grant permission to cross-examine the plaintiff.

3. The plaintiff has filed reply and submitted that the defendant has not produced any medical documents in support of his contentions. It is further submitted that sufficient opportunities were already granted to the defendant to cross-examine PW-1, however, he failed to avail the same. Therefore, it is contended that the present application is filed only to delay the proceedings and hence it be rejected with costs.

4. Heard learned advocate of both the sides. Perused record and proceeding. It is seen that, the plaintiff No.2 has filed affidavit of examination-in-chief at Exh.14 on 21/08/2024. Thereafter, the matter was fixed for cross-examination, however the defendant remained absent and failed to cross-examine the witness. Therefore, this Court has passed “No Cross” order on 03/02/2025. The reasons assigned by the

defendant for his absence are illness and unavoidable circumstances, however, no documentary evidence is produced on record to substantiate the same. Though the conduct of the defendant shows negligence, it is settled law that the right of cross-examination is a valuable right and denial thereof may affect fair trial. The evidence of PW-1 is material for adjudication of the suit on merits and therefore, in the interest of justice, one opportunity deserves to be granted to the defendant subject to costs. At the same time, the conduct of the defendant requires to be deprecated by imposing costs. Hence, I proceed to pass following order.

ORDER

1. The application is allowed.
2. The order of No evidence dated 03/02/2025 is set aside subject to costs of Rs 500/-(Five Hundred Rupees) to be paid to the plaintiff and after the defendant is permitted to cross-examine Plaintiff No.2 on next date without seeking adjournment.
3. In case of default, the “No Cross” order shall stand revived automatically.

Date : 10.04.2026

(Shailesh R. Satbhai)
Civil Judge Junior Division,
Seloo.

CERTIFICATE

I affirm that the contents of this P.D.F. file is same, word to word as per the original.

(R. M. Khan)
Stenographer (Grade-III)