



ORDER BELOW EXH.46.

(CNR No. MHWS02000339-2021)

Read the application and say. Perused the record.

2] Through this application defendant has contended that when the present matter was fixed for cross examination of the plaintiff, due to his personal reason he could not appeared in the Court. Also his learned counsel was out of station for some work. Therefore, matter could not be attended on that day for cross examination. However, Court has passed no cross order against him. According to the defendant he is ready to cross examine the plaintiff and therefore an opportunity may be given to him or great prejudice will be caused to him. Hence, he has prayed for grant of application.

3] The plaintiff on the other hand vide his say strongly opposed the application and submitted that further examination in chief of plaintiff was recorded on 08/12/2023. However, defendant did not cross examine the plaintiff. Hence, he has submitted for rejection of application.

4] I have perused the record. It is seen that plaintiff adduced his evidence i.e. further examination in chief on dated 08/12/2023. Since then matter was pending for his cross examination. The defendant despite opportunity failed to cross examine the plaintiff. It appears from the record that thereafter matter was referred for mediation. However, after receipt of mediation report also defendant failed to cross examine the plaintiff. Therefore, the learned

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Order Below Exh.46

Predecessor passed no cross order below Exh.22 on dated 07/02/2025 against defendant. The defendant immediately on the next date moved present application. It is pertinent to note that defendant has already filed his written statement on record and thereby contested the present matter. He has also mentioned the reason for not attending the Court on the date of cross examination. It is settled law that defendant has right to defend the case and cannot be deprived of their right. Therefore, in such circumstances in order to decide the matter on merit an opportunity can be given to the defendant to cross examine the plaintiff. At the same time it also can not be ignored that the delay is caused due to absence of defendant. Therefore, cost can be imposed upon him while deciding the application. Hence, in the light of above discussion, I proceed to pass the following order -

ORDER

- 1] Application Exh.46 is allowed in the interest of justice subject to cost of Rs.500/- to be paid on or before next date positively.
- 2] The order passed below Exh.22 dated 07/02/2025 is hereby set aside.

Washim.
Date:- 02/08/2025.

(Smt. P V. Rane)
Civil Judge (Sr. Div.), Washim.

CERTIFICATE

I affirm that the contents of this PDF file judgment/order are same word to word, as per original judgment/order.

- 1) Name of Stenographer :- S. P. Kale (Stenographer G-III)
- 2) Name of Court :- Civil Judge (S.D.), Washim.
- 3) Date :- 02/08/2025
- 4) Order signed by the presiding officer on :- 02/08/2025
- 5) Order uploaded on :- 04/08/2025