

MHYA240001062025



ORDER BELOW EXH.- 38

- 1) This is an application filed by the defendant no.3 to 6-A for setting aside no cross order vide Exh.26 dated 10/03/2026 and permission for cross-examination of PW1 vide Exh.26.
- 2) According to defendant no.3 to 6-A, no cross order was passed against them on 10/03/2026 due to absence of the their counsel as he was out station on that day and they could not seek adjournment. However, they are ready to cross-examine PW1 and cross-examination is necessary to bring on record facts of the case and there will not be any prejudice to the plaintiffs.
- 3) Plaintiffs have resisted the application by filing their say overleaf of the application and contended that, affidavit of examination in chief of PW1 was filed on 10/12/2025 and these defendants had sought adjournment on 19/01/2026 and 03/02/2026 and thereafter on 24/02/2026 also time was granted and there was imposition of cost on 03/02/2026 and 24/02/2026 still cross was not taken and cost has also has not been paid. Hence, they prayed for rejection of this application.
- 4) Heard Learned Counsels of the parties. Perused entire record.
- 5) This is the suit for declaration and perpetual injunction by which orders passed by defendant no.1 & 2 under Mamlatdar Courts Act have been challenged and defendant no.1 & 2 have

failed to file appearance and suit is proceeding ex parte against them whereas defendant no.3 to 6-A have filed contesting WS vide Exh.19 and indeed evidence affidavit was filed on 07/01/2026 and further chief was recorded on 19/01/2026 and matter was kept for cross-examination and on 03/02/2026 and 24/02/2026 these defendants had sought time which was granted subject to cost of Rs.300 and Rs.400 respectively and still on 10/03/2026 none advocate for defendant no.3 to 6-A and there was no adjournment application and cost was not also paid, therefore on 10/03/2026 no cross order was passed and this application was filed on 17/04/2026.

6) Considering the contesting WS and intent of cross-examination and considering the reason of non availability of the counsel on 10/03/2026. Moreover, considering as per the adherence of principle of natural justice, application needs to be allowed. Hence, I proceed to pass following order;

ORDER

- 1) Application Exh.- 38 is hereby allowed subject to costs of Rs.700/- (Rupees Seven Hundred only), payable to the plaintiffs.
- 2) Keep the matter for compliance of payment of cost and for cross-examination of PW1 vide Exh.26.

Date : 17/06/2026.

(P. S. Jondhale)
Civil Judge (Sr. Dn.),
Wani.