

ORDER PASSED BELOW EXH.01

Perused the record.

2. It appears that this Court had directed the defendant to remain present in person before the Court for his examination and hearing in respect of the present suit. The record further reveals that, as per **Exhibit-31**, the notice was duly served upon the defendant. The learned Advocate for the defendant has fairly admitted that the defendant failed to remain present before this Court despite service of notice.

3. The continuous absence of the defendant and his failure to comply with the order passed below **Exhibit-5** dated 06.04.2026 demonstrate deliberate non-compliance with the directions of this Court. He had filed an application for grant of his exemption, which was allowed. But later, he failed to remain present. The conduct of the defendant is neither bona fide nor justifiable. Though this Court is empowered to issue a warrant against the defendant under Section 32 of the Code of Civil Procedure, 1908, this Court is, at present, refraining from exercising the said power. However, the defendant's persistent default warrants appropriate action. It is important to note that under Order 39 Rule 11 of the CPC this court is empowered to either dismiss the suit or strike off the defence for non-compliance of any order. The defendant has willfully not complied with the order and thus this warrants to pass order said provision: Hence, the following order is passed:

ORDER

1.	The application at Exhibit-5 shall be decided without hearing the defendant.
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2.	The defence of the defendant is struck off under Order XXXIX Rule 11 of the Code of Civil Procedure, in view of his wilful non-compliance with the orders of this Court.
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Date :- 06/07/2026

Place :- Mahagaon.

(S. R. Jain)
(J.O. Code - MH03229)
Judicial Magistrate First Class,
Mahagaon.