

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8016 OF 2014**

Ramswarup Girdharilal Khandelwal & Ors.	..Petitioners
Vs.	
Pimpri Chinchwad Municipal Corporation & Ors.	..Respondents

Mr. D. S. Patil for the Petitioners
Mr. Deepak More for the Respondent No.1
Mr. S. R. Ronghe for the Respondent Nos.3 and 4

CORAM : R. M. SAVANT, J.
DATE : 22nd SEPTEMBER, 2015

P.C.

1 At the outset, the Learned Counsel for the Petitioners seeks leave to amend so as to incorporate prayer clause (a-i) after prayer clause (a). Leave granted. Amendment to be carried out forthwith.

2 The above Writ Petition is directed against the order dated 12-3-2014 passed by the Learned Civil Judge Junior Division (PCMC), Akurdi. The said order is a no cross order passed against the Petitioners / Plaintiffs in respect of the cross-examination of the witness of the Pimpri Chinchwad Municipal Corporation (PCMC) i.e. the Respondent No.1 herein. The Petition also challenges the subsequent order dated 9-4-2014 passed on Exhibit 85 filed by the Petitioners by which order the said application for setting aside the no cross order came to be rejected. It seems that the cross-examination of the

witness of the PCMC could not be conducted in view of the fact that the Advocate for the Plaintiffs was unwell on the said day fixed for the said cross-examination.

3 In my view, a final indulgence is required to be shown to the Petitioners / Plaintiffs in the interest of a fair trial, however the same would be at the pains of imposing costs. The impugned order dated 12-3-2014 as well as the impugned order dated 9-4-2014 are quashed and set aside, resultantly the Plaintiffs would be entitled to cross-examine the witness of PCMC Mr Anil Shinde, Deputy Engineer, 'A' Ward. The witness to be kept present in the Trial Court on 6-10-2015 when the Plaintiffs would commence the cross-examination on the same day or on any other day that would be fixed by the Trial Court as per its convenience, but the cross-examination would be done and completed at one stretch. In the facts and circumstances of the case, the Plaintiffs to deposit costs of Rs.2000/- with the Maharashtra State Legal Aid Fund, within two weeks from date. The Petition is allowed to the aforesaid extent and to accordingly stand disposed of.

[R.M.SAVANT, J]

CERTIFICATE

Certified to be true and correct copy of the original signed order