

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO.5339 OF 2019**

Dattatray Namdeo Katurde .. Petitioner  
Versus  
Bharat Govindlal Sharma & Ors. .. Respondents  
...  
Mr.Pratap Patil for the Petitioner.  
Mr.Jaydeep Deo for the Respondent No.1.  
...

**CORAM: BHARATI DANGRE, J.**  
**DATED : 27<sup>th</sup> OCTOBER, 2021**

**P.C:-**

1. Being aggrieved by the order dated 29/11/2018 passed by the Civil Judge Senior Division, Pune, rejecting the prayer of the petitioner for recording the evidence in R.C.S. No.231 of 2011 and S.C.S. No.135 of 2013 commonly, the present petition is preferred.
2. The application moved by the petitioner/original defendant on 21/08/2019, was rejected by the learned Judge on 29/11/2018 on the ground that the issues are distinct and different and leading further common evidence would create unnecessary delay/hurdles.
3. The petition is pending in this Court since the year 2019. Learned counsel for Respondent No.1 has made a categorical statement that in R.C.S. No.231 of 2011, the plaintiff has

examined himself, but since the petitioner, who is the defendant therein, has failed to cross-examine him and even a 'No Cross' order has been passed. In the wake of the aforesaid development, when R.C.S. No.231 of 2011 has progressed and the evidence of the plaintiff has been recorded, the legality or correctness of the order dated 29/11/2018 cannot be gone into.

The writ petition is dismissed as infructuous.

4. Needless to state that the petitioner is at liberty to take appropriate application for setting aside the 'No Cross' order and it is for the learned Judge to consider the same on its own merits. I cannot resist myself from making an observation that the suit is pending since the year 2011 and after the impugned order has been passed in the year 2018, the suit has only moved to the stage of examination of the plaintiff. The learned Judge is requested to conclude the suit within a time-frame by strictly adhering to the procedure set out in the C.P.C.

**( SMT. BHARATI DANGRE, J.)**