

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1000 OF 2022

**BABULAL UMAJI KASAR
VERSUS
VITTHAL SAKHARAM KASAR (DEAD) AND OTHERS**

...
Advocate for Petitioner : Mr. Satyajeet S. Dixit
Advocate for Respondent No.2 : Mr. A.N. Nagargoje
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 13th APRIL, 2023

PER COURT :

1. 'No cross' order dated 12/08/2021, passed against petitioner by the trial Court in Regular Civil Suit No.48/2015, is questioned in the present petition.
2. The suit is filed by respondent Nos. 1 and 2/original plaintiffs for injunction against petitioner and respondent Nos. 3 and 4. Petitioner/original defendant No.1 and other defendants appeared and resisted the suit. Thereafter plaintiff led his evidence. On account of failure on the part of petitioner to cross-examine the plaintiff by two years, 'no cross' order is passed by the trial Court on 12/08/2021.
3. Heard learned advocate for petitioner and learned advocate for respondent No.2. Perused the grounds raised in the petition, annexures thereto and the impugned order.

4. It is a matter of record that petitioner has failed to cross-examine the plaintiff for a period of two years. Learned advocate for petitioner submits that it was during Covid period and hence, he could not cross-examine the plaintiff.

5. Learned advocate for respondent No.2 vehemently opposed prayer of the petitioner contending that the trial Court is justified in passing 'no cross' order considering the conduct of the petitioner.

6. Admittedly, the petitioner failed to conduct cross examination during the Covid period. Trial Court, therefore, in the facts of the present case, is not justified in passing 'no cross' order against petitioner. Petitioner deserves fair and reasonable opportunity to defend his case, which is denied by the impugned order. Impugned order, therefore, cannot be sustained.

7. In the result, writ petition is allowed in terms of prayer clause 'A'. Considering the fact that suit is of the year 2015, the trial is expedited.

(NITIN B. SURYAWANSHI, J.)