

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13433 OF 2022

Dilip Gajanan Malwadkar and Ors. ...Petitioners
V/s.
Ramchandra Bapu Taware
(since deceased through legal heirs) and Ors. ...Respondents

Mr. V.A. Shastrey i/b Manmath Athalye for the Petitioners.
None for the Respondents.

CORAM : N.R. BORKAR, J.
DATE : 06.06.2023

P.C. :

1. This petition takes exception to the orders dated 15 February 2019 and 18 February 2022 passed below Exhibit 65 and Exhibit 82 respectively, in Regular Civil Suit No. 46 of 2009.

2. It appears that plaintiff No.2 had filed an affidavit of examination-in-chief on 11 April 2017. The present petitioner, who is defendant in the suit, had not cross examined him for six months and therefore, no cross order was passed on 19 December 2017. It appears that eight months thereafter on 30 August 2018, the petitioner had filed an application at Exhibit 65 that plaintiff No.2 be recalled and he be permitted to cross-examine him. The trial Court rejected the said application at Exhibit 65 by order dated 15 February 2019. It appears that instead of challenging the said order approximately after one year i.e on 15 February 2020, the petitioner had filed an application at

Exhibit 82 with identical prayer which was made in application at Exhibit 65. The trial Court rejected the said application by order dated 18 February 2022.

3. Considering the overall facts and circumstances of the case, I am not inclined to entertain the present petition. The writ petition is dismissed.

[N.R.BORKAR, J.]