



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

928 WRIT PETITION NO. 10409 OF 2024

BABAN BHAGWAT BONDAR
VERSUS
BHARAT BHAGWAT BONDAR AND OTHERS

Mr. V. D. Salunke h/f Mr. M. V. Salunke, Advocate for the petitioner
Mr. G. N. Tirthkar, Advocate for respondent No.1.

CORAM : R. M. JOSHI, J.
DATE : 11th MARCH, 2025

PER COURT :-

1. This petition takes exception to order dated 10th November, 2023 passed by the Trial Court in R.C.S. No. 577 of 2017 refusing the prayer made by the defendant to cross-examine the plaintiff's witness.
2. Learned counsel for the petitioner submits that the suit is for partition and the right of both plaintiff and defendant are involved therein. It is his submission that no doubt by order dated 26th July, 2022 no cross order was set aside, however, thereafter on account of surgery undergone by the defendant, no cross-examination of the plaintiff would be conducted. He undertakes, on instructions, to appear before the Trial Court and to conduct cross-examination of the witness on the next date of hearing i.e. 24th March, 2025.
3. Learned counsel for the respondents opposed the petition by contending that on earlier occasion the no cross order was set aside and

in spite of the same cross is not conducted. It is his submission that the suit before the Trial Court is at the final stage.

4. It is in the interest of the parties that the lis between them is decided on merit. Even when there is some substance in the grievance made out by the respondent/plaintiff against the defendant, this Court finds no reason not to accept the undertaking given by the defendant/petitioner for cross-examining the plaintiff's witness on the next date of hearing before the Trial Court. In any case the inconvenience caused to the respondent/plaintiff can be compensated by imposing reasonable cost. Considering the facts of the case, the cost is determined at Rs.2000/- payable by the defendant to the plaintiff/respondent.

5. In view of the above, impugned order is set aside. The Trial Court to permit the defendant to cross-examine plaintiff's witness on 24th March, 2025 subject to the defendant having already paid the cost to the plaintiff. It is open for the Trial Court to pass appropriate order if defendant fails to work out the matter. Needless to say that the Trial Court make endeavor to dispose of the suit on merit as early as possible.

(R. M. JOSHI, J.)

ssp