



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

WRIT PETITION NO. 11508 OF 2025

1. Sudhakar s/o Rustum Pawar,
2. Madhukar s/o Rustum Pawr,
3. Munja s/o Rustum Pawar

... Petitioners
(Ori.Deft.Nos.2 to 4)

VERSUS

1. Narayan s/o Ginyandev Pawar,
2. Sow. Vanita w/o Bhagwan Kadam,
3. Suman w/o Ginyandev Pawar,
4. Ginyandev Munja Pawar. (Died on 12.4.16).

... Respondents
(Ori.Plaintiffs)

.....

Advocate for Petitioners : Mr. M. P. Tripathi

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CORAM : ARUN R. PEDNEKER, J.

DATE : 10th December, 2025

ORDER :

1. Heard.
2. By the present petition, the petitioners (original defendants) challenge the order dated 13/08/2025 passed below Exhibit 65 by the learned Civil Judge, Junior Division, Sailu, District Parbhani, whereby the application filed by the petitioners (original defendants) seeking extension of time to deposit costs of Rs.10,000/- came to be rejected with further costs of Rs.1,000/-.
3. The brief facts are that the defendants had filed an application at

Exhibit 62 seeking to set aside the *no-cross* order passed against them, as well as the order closing their evidence. The same was allowed with exemplary cost of Rs.10,000/-. As the petitioners failed to deposit the costs within the stipulated period in terms of the order below Exhibit 62, they filed the application at Exhibit 65 seeking extension of time. The said application has been dismissed. Assailing this order, the learned Counsel for the petitioners submits that grave prejudice would be caused to the petitioners if they are not permitted to deposit the costs of Rs.10,000/-, and that restoration of the order below Exhibit 62 and extension of time is essential to enable them to contest the matter effectively.

4. Having considered the submissions and the material placed on record, this Court is not inclined to interfere with the impugned order. The chronology of events in the suit clearly reflects prolonged and repeated delays attributable to the defendants/ petitioners.

5. The suit was instituted on 06/09/2014. The defendants were served on 02/05/2015, and defendants No.2 to 4 filed their written statement on 26/06/2015. Issues were framed on 22/04/2019. The affidavit in lieu of examination-in-chief of the plaintiff was filed on 04/10/2019.

6. On 15/09/2021, the defendants' adjournment application at Exhibit 44 was granted subject to costs of Rs.200/-. On 14/10/2021, their adjournment application at Exhibit 46 was rejected and a *no-cross* order

came to be passed. On 23/04/2022, the *no-cross* order was set aside by the order below Exhibit 51, subject to costs of Rs.500/-.

7. Despite this opportunity, on 09/01/2023, once again a *no-cross* order was passed against the defendants, as they again failed to cross-examine the plaintiffs. Eventually, the plaintiffs' evidence was closed on 06/05/2024, and on 05/11/2024 the defendants' evidence was also closed. The suit was thereafter posted for final arguments.

8. On 03/03/2025, the defendants filed Exhibit 62 seeking to set aside the *no-cross* order dated 09/01/2023 and the order dated 05/11/2024 closing their evidence. The Trial Court noted that although the defendants were afforded earlier opportunities, including by way of the order below Exhibit 51, they repeatedly defaulted and continued filing adjournment applications. Nevertheless, in the interest of justice, the Trial Court allowed Exhibit 62 on 02/04/2025, subject to payment of costs of Rs.10,000/-.

9. Thereafter, the defendants filed Exhibit 64 on 18/06/2025 seeking extension of time for depositing the said costs. The application was rejected, and the suit was posted for final arguments. The matter appeared on the Board on 07/07/2025 and 21/07/2025. Despite this, there was no request from the petitioners seeking time to deposit the costs. It is only on 13/08/2025 that the defendants came up with Exhibit 65 seeking further extension.

10. The Trial Court, after considering the conduct of the defendants, noted that the proceedings had been repeatedly delayed and that such delay appeared to be deliberate. In the instant case the suit for partition wherein the plaintiffs claim 1/5th share in agricultural land and residential property and separate possession. The delay is evidently to the advantage of the defendants. The Trial Court, therefore, found no justification to grant repeated indulgences after multiple opportunities had already been given.

11. In the circumstances, this Court finds no reason to interfere with the impugned order. The learned Trial Court has exercised its discretion judiciously and has rightly rejected Exhibit 65.

12. Accordingly, the petition stands dismissed.

(ARUN R. PEDNEKER, J.)

vj gawade/-.