

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10113 OF 2023**

Tarabai Bhauso Mali,
Since Deceased Through LRs.Petitioners
Vs.
Krushnat Pandit Mali & Ors.Respondents

Mr. Rugwed R. Kinkar, i/b. Mr. Drupad S. Patil, for the Petitioners.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 11th DECEMBER 2025

PC.:-

1. The Petitioners/plaintiffs impugn order dated 6th July 2023 passed below Exhibit 115 in Special Civil Suit No.80 of 2011 pending before learned Civil Judge Senior Division, Kolhapur, whereby application filed by Petitioner for setting aside no cross order has been rejected. The Petitioners are plaintiffs in Special Civil Suit No.80 of 2011, which has been filed seeking cancellation of sale deed dated 17th January 2011. Plaintiff has already concluded evidence and suit is at stage of recording of evidence of defendants.

2. It appears that both parties have recklessly sought adjournments during pendency of suit. The conduct of Petitioners also cannot be countenanced. The trial Court recorded that on 11th

April 2023, defendant's cross-examination was closed. Thereafter, Petitioner filed an application dated 27th June 2023 to grant opportunity to cross-examine by setting aside no-cross order. In this background, trial Court rejected application.

3. It can be observed that suit is filed seeking cancellation of sale deed. The valuable rights of parties in respect of immovable property are subject matter of suit. If plaintiffs are not granted one more opportunity to cross-examine witness of defendant, they would suffer irreparable injury. The defendant can be compensated by granting reasonable costs.

4. In that view of matter, Writ Petition is partly allowed.

5. The impugned order dated 6th July 2023 passed below Exhibit 115 is set aside. Application Exhibit 115 is allowed, subject to condition that plaintiffs pay costs of Rs.5,000/- to defendants. The costs to be deposited in trial Court within a period of three weeks from today and be released to defendants.

6. Once the costs is deposited, plaintiffs shall be at liberty to cross-examine defendant's witness on date as specified by trial Court

without taking further adjournment. In case of failure to deposit costs, order dated 6th July 2023 passed by trial Court would govern the proceeding

(S. G. CHAPALGAONKAR, J.)

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signed by
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GAIKWAD
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