

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIRCUIT BENCH AT KOLHAPUR  
WRIT PETITION NO.9335 OF 2025**

1. Snehal Shantaram Mali NEE Snehal  
Sandip Yadav,  
Age about 41 years,  
Occupation: Service,  
R/o. Railway Quarter Type II/1008/12  
Valdhuni, Kalyan (East),  
District: Thane.  
At present R/o. A-104, Balaji Exotica  
Near Mangeshi Hall, Chikanghar,  
Kalyan (West) - 421 301.
2. Ashwini Shantaram Mali NEE  
Ashwini Kiran Ramapure,  
Aged about 39 years,  
Occupation: Service,  
R/o. Kantilal Chawl, Room No. 2,  
Marol Maroshi Road, Marol Police  
Camp, Andheri (East),  
Mumbai - 400 059.
3. Shalaka Shantaram Mali NEE  
Shalaka Ranjeet Gore,  
Aged about 37 years,  
Occupation: Service,  
R/at-Post Anewadi, Near Shivshakti  
Pat-Santha, Tal. Jawoli,  
District: Satara - 415020.
4. Anita Eknath Yadav NEE Anita  
Shantaram Mali,  
Aged about 61 years,  
Occupation: Household,  
R/at. Post-Panmalewadi, Near  
Grampanchayat, Post-Varye  
Taluka & District: Satara.
5. Prasanna Shantaram Mali,  
Aged about 30 years,  
Occupation: Education,  
R/o. 101, B-wing, Guru Prakash  
Society, Opp. Mahavir Heights,  
Savarkar Road, Dombivali (East)

..Petitioners

(Orig. Opponent Nos.1 & 5)

Versus

1. Alka Shantaram Mali,  
Age about 61 years,  
Occupation: Household,
2. Vivek Shantaram Mali,  
Aged about 24 years,  
Occupation:- Private Service,  
Both R/o. C/o. Rajaram Krushna  
Jaykar, Bawdhan, Bawadhankar Mala  
Tal. Wai, District: Satara.

..Respondents

(Nos. 1 and 2 are Orig. Applicants)

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Mr. Dilip Bodake a/w Mr. Arnav P. Dhumal a/w Mr. Viraj P. Dhumal,  
Advocate for Petitioners.

Mr. V. A. Shastry, Advocate for Respondents.

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**CORAM : S. G. CHAPALGAONKAR, J.**

**DATED : 19<sup>th</sup> DECEMBER, 2025.**

**FINAL ORDER:-**

1. The present Writ Petition takes exception to order dated 06.05.2025 passed by Joint Civil Judge Senior Division, Wai in Succession Certificate Application No.32/2023, whereby application filed by petitioners for setting aside No Cross order and for grant of permission to cross-examine respondents has been rejected.

2. The respondent nos.1 and 2 filed Succession Certificate Application No.32/2023 (Old No.94/2014) before Civil Judge Senior Division, Wai. The petitioners appeared in response to summons and filed written statement below Exhibit-27, thereby refuting claim of respondents. On 23.11.2022, Trial Court framed issues below Exhibit-45. The respondents filed evidence affidavit on 29.08.2019. Since petitioners failed to cross-examine, 'No Cross' order was passed on 20.02.2021, which was later on set aside. Again on 30.07.2024, petitioners failed to cross-examine respondents. Hence, again 'No

Cross' order was passed. On 20.08.2024, petitioners applied for setting aside 'No Cross' order, which was allowed on 02.12.2024, but petitioners failed to comply direction. Again petitioners made application dated 21.01.2025 for setting aside 'no written statement' order and sought permission to cross-examine respondents. The Trial Court rejected said application vide impugned order dated 06.05.2025.

3. Mr. Dilip Bodake, learned Advocate appearing for petitioners would submit that on 29.12.2024, petitioner no.1 was seriously ill and she was advised to take rest. Eventually, she could not cause appearance before Court and instructed her Advocate to conduct cross-examination. He would urge that looking to nature of proceeding, 'No Cross' order needs to be set aside and one more opportunity needs to be given to petitioners.

4. Per contra Mr. Shastry, learned Advocate appearing for respondents would submit that respondent no.1 tendered evidence affidavit on 29.08.2019. Since then, petitioners are protracting proceeding. Thrice 'No Cross' order has been passed against them. They were given sufficient opportunity by setting aside those orders. Their conduct is not bonafide. The Trial Court is, therefore, justified in rejecting their application.

5. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that parties are litigating for succession certificate. The valuable rights of parties are

involved in succession proceeding. It is true that, conduct of petitioner cannot be countenanced. However, record shows that on 29.12.2024, petitioner no.1 was ill. Her contentions regarding illness is supported by medical certificate. In that view of matter, one more opportunity needs to be given to petitioners to cross-examine plaintiffs or plaintiffs' witness by setting aside 'no cross' order. However, respondents, who suffered hardship due to conduct of petitioners needs to be adequately compensated. Hence, following order:

**ORDER**

- a. Writ Petition is allowed in terms of prayer Clause (b) subject to condition that petitioners deposit cost of Rs.25,000/- within period of six weeks from date of this order with Trial Court.
- b. On deposit of cost, the same be disbursed in favour of respondents.
- c. The defendants shall complete cross-examination of applicants without seeking adjournment on any count.
- d. The Trial Court shall endeavour to decide Succession Certificate Application No.32/2023 within period of four months from date of this order.

**(S. G. CHAPALGAONKAR)**  
**JUDGE**