



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**WRIT PETITION NO. 1780 OF 2025**

**(Shri Tukaram Shenfad Wagh & Ors. Vs. Shri Arun Sakharam Chavhan & Ors.)**

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's Orders.

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Court's or Judge's orders.

Mr. Sunil Shinde, Counsel for the petitioners.  
Mr. R.G. Kavimandan, Counsel for respondent no.1.  
Ms K.P. Marpakwar, A.G.P. for respondent no.2/State.  
Mr. Tejas Deshpande, Counsel for respondent no.6.

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**CORAM : ANIL L. PANSARE, J.**  
**APRIL 29, 2025**

On 3/4/2025, following order was passed :

*“The petitioners – original defendant nos. 5 to 19 seek to set aside order of no cross and no evidence passed against them by the trial Court on the ground that the earlier Counsel failed to cross-examine respondent no.1 – original plaintiff’s witnesses.*

*2] The petitioners shall make Advocate Mr. S.T. Kalkar, who appeared earlier for them and who is blamed of not acting diligently, as party respondent no.6 to the petition in order to understand his version. The amendment be carried out forthwith.*

*3] Considering the reasons assigned by the trial Court for passing order of no cross and no evidence, the petitioners shall deposit Rs.25,000/- with the Registry of this Court within one week from today to show their bona fide. If the amount is not deposited, the petition shall stand dismissed without further reference to this Court.*

*4] If the amount is deposited, issue notice to the respondents returnable four weeks thereafter.*

*5] At this stage, the learned Counsel for the petitioners made a request to stay the proceedings pending before the trial Court on the ground that it is fixed for argument on 8/4/2025.*

6] *The request cannot be acceded to for more than one reasons. Firstly, the order of no cross, which was passed in March – 2024, has been challenged after about one year. For all these days, the petitioners kept quite. Secondly, the order passed by the trial Court indicates that the petitioners have prolonged the matter.*

7] *In the circumstances, the request made by the petitioners, if granted, will, in a way, permit further prolongation of the suit for the fault committed by the petitioners. The request is accordingly rejected.*

8] *Nonetheless, the petitioners may serve the respondents before 8/4/2025, and if so served, the request for interim relief could be considered.*

9] *Accordingly, the order passed earlier stands modified. The petitioners shall deposit cost of Rs.25,000/-by 5/4/2025, and thereupon, issue notice to the respondents returnable on 8/4/2025.*

10] *Hamdast granted.*

11] *Copy of order be served on the trial Court.”*

2] Mr. Tejas Deshpande, learned Counsel, appears for the Counsel, who was appointed by the petitioners. He submits that along with him, one Mr. Kale has also signed Vakalatnama, and it is he, who has sought adjournment.

3] On this count, I have heard both sides to find that there is some confusion as regards the exact role to be played by Mr. Kale and Mr. Kalkar – respondent no.6. According to the petitioners, Mr. Kale was junior of respondent no.6, whereas respondent no.6 submits that both were at par.

4] The learned Counsel for respondent no.1 submits that once the petitioners have appointed two Counsels, they cannot amongst them distinguish their

status. He further submits that either of them could have proceeded further, and having failed to do so, the Court below was right in passing order of 'no cross' and 'no evidence' against the petitioners.

5] It is obvious that the controversy has resulted into sufferance of the petitioners, who have not played any role, either in seeking adjournment or in not taking steps to cross-examine respondent no.1's witness.

6] As such, the trial Court has given ample opportunity to the petitioners' Counsel to cross-examine the witness, however, the Counsel failed to cross-examine the witness. Nonetheless, the petitioners were aware of this status and, therefore, should have taken effective steps to pursue their cause.

7] In the circumstances, ends of justice will meet if one more opportunity is given to the petitioners subject to cost of Rs.25,000/- to be paid to respondent no.1.

8] Accordingly, the petition is partly allowed. Order dated 12/3/2024 passed below Exh. 58 and order dated 2/5/2024 passed below Exh. 75, both by the Joint Civil Judge Senior Division, Buldhana, and order dated 30/7/2024 passed below Exh.1 and order dated 1/1/2025 passed below Exh. 77, both by 2<sup>nd</sup> Joint Civil Judge Senior Division, Buldhana, in Regular Civil Suit No. 209/2022, are quashed and set aside.

9] The applications filed by the petitioners, i.e., Exhibits 58, 75 and 77, are allowed, as prayed for, subject

to cost of Rs.25,000/- to be paid to respondent no.1. The petitioners have deposited the said amount in terms of order dated 3/4/2025 passed by this Court. The Registry shall pay the said amount to respondent no.1.

10] The petitioners shall not seek further adjournment. If adjournment is sought, the trial Court shall deal with the same without giving further concession, subject, of course, to all other attending circumstances.

11] The petition is disposed of in above terms.  
No costs.

**(ANIL L. PANSARE, J.)**

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