



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

7 WRIT PETITION NO.4942 OF 2025

Sunil Chadrabhan Wagh

VERSUS

Ujwala Sunil Wagh

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Advocate for Petitioner : Mr. Shaikh Sohail Subhedar

Advocate for Respondent : Mrs. Renuka Ghule

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : February 23, 2026

PER COURT :-

1. Present writ petition takes exception to the order dated 28.2.2025 passed below Exhibit-36 in H.M.P. No.629 of 2022 by learned Civil Judge, Senior Division, Aurangabad thereby rejecting petitioner's application to set aside 'no cross'.

2. The petitioner is respondent in H.M.P. No.629 of 2022, which has been instituted by the respondent/wife for restitution of conjugal rights. On 11.12.2024 matter was posted for evidence. Petitioner could not appear and cross-examine the respondent. In result, no cross order came to be passed below Exhibit-34.

3. Petitioner filed an application below Exhibit-36 and prayed for setting aside the 'no cross order' and permission to cross-examine respondent. However, learned Judge rejected petitioner's application observing that petitioner/his advocate was absent without good reason when the matter was called out.

4. Perusal of the impugned order clearly shows that application for setting aside 'no cross' order has been rejected merely because petitioner/his advocate was not present since 11.00 am to 01.30 p.m. to prosecute application for setting aside 'no cross' order. In this backdrop, it can be observed that petitioner is deprived of valuable right without sufficient opportunity. Hence, this is a fit case to invoke writ jurisdiction and allow petitioner's application below Exhibit-36 and permit him to cross-examine respondent, but by imposing compensatory costs to respondent. In result, following order is passed.

O r d e r

1. Writ Petition is partly allowed in terms of prayer clause '**B**'.
2. Petitioner shall be entitled to cross-examine the respondent and respondent's witnesses, if any,

subject to costs of Rs.3,000/- (Rs. Three Thousand) payable to the respondent.

3. Costs to be deposited with the Trial Court within a period of three weeks from today.
4. Once the costs is deposited, petitioner shall diligently cross-examine the respondent and witnesses without seeking further adjournment.
5. Writ petition stands **disposed of**.

(S. G. CHAPALGAONKAR, J.)

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AAA/-