



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

WRIT PETITION NO. 681 OF 2026

BHAUSAHEB SANDU CHAUHAN DIED THROUGH LRS SMT
MAMTA BHAUSAHEB CHAUHAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr. Gaurav L. Deshpande, Advocate for the Petitioners.
Mrs. A. S. Mantri, AGP for Respondents-State.

...
CORAM : S. G. CHAPALGAONKAR, J.
DATED : 28th JANUARY, 2026.

P.C.:-

1. The learned Advocate appearing for petitioners submits that respondent nos.2 and 3 are formal parties for purpose of present Writ Petition, as suit is filed by respondent no.1/State of Maharashtra, in which 'no cross' order is passed against petitioners. In that view of matter, he seeks permission to delete respondent nos.2 and 3.
2. Permission is granted at the risk of petitioners. Amendment to be carried out forthwith.
3. The present Writ Petition takes exception to order dated 26.08.2025 passed below Exhibit-104 and order dated 14.11.2025 passed below Exhibit-111 by Civil Judge Senior Division (Corporation Court), Chhatrapati Sambhajnagar in Regular Civil Suit No.5/2020, by which 'no cross' order is passed against petitioners.

4. Mr. Gaurav Deshpande, learned Advocate appearing for petitioners would submit that respondent/State of Maharashtra has filed Regular Civil Suit No.5/2020 seeking declaration of ownership and perpetual injunction in respect of suit properties. In that suit, issues were framed and on 09.06.2023, plaintiff's witness tendered evidence affidavit. The 'no cross' order was passed against petitioners/defendant nos.3 to 10. On 01.11.2023, petitioners filed an application for setting aside 'no cross' order below Exhibit-76 and same was allowed. However, subsequently, again 'no cross' order was passed. Meanwhile, defendant no.3 expired and proceeding was pending for bringing legal representatives on record. The legal representatives of defendant no.3 appeared in suit and accepted written statement as filed by original defendant no.3.

5. In aforesaid background, plaintiff filed another application below Exhibit-104 for setting aside 'no cross' order dated 03.05.2025. The Trial Court was pleased to reject application vide order dated 26.08.2025. The petitioners had filed another application below Exhibit-111 seeking review/recall of order dated 26.08.2025. However, Trial Court rejected same. Hence, this petition.

6. Per contra, Mrs. Mantri, learned AGP appearing for respondent-State supports impugned order. She would point out

that twice opportunity was given to petitioners to cross-examine plaintiff's witness. Apparently, such opportunity was not taken and petitioners/defendant nos.3 to 10 have prolonged proceeding in suit.

7. Having considered submissions advanced by learned Advocates appearing for respective parties, it is apparent that plaintiff's witness was examined in year 2023. The petitioners failed to cross-examine him. Therefore, 'no cross' order was passed on 09.06.2023 below Exhibit-48. The petitioners sought to set aside said order. Initially, their prayers were granted, but again they failed to conduct cross-examination. The conduct of petitioners cannot be countenanced. However, fact remains that parties are litigating over rights in respect of immovable properties. Looking to nature of suit and dispute involved, it is desirable that parties to the proceeding are given full opportunity to establish their case during course of trial.

8. In that view of matter, this Court finds that one more opportunity can be given to petitioners to cross-examine plaintiff's witness by imposing exemplary cost. Hence, following order:

ORDER

- a. Writ Petition is allowed in terms of prayer Clause (B).
- b. The petitioners are permitted to cross-examine plaintiff's witness subject to payment/deposit of cost of Rs.25,000/- (Rs.

Twenty Five Thousand only) within period of four weeks from today.

c. In case of failure to deposit amount, impugned orders in Writ Petition shall govern proceeding.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/January-2026