

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3731 OF 2026
WITH
WRIT PETITION NO. 5161 OF 2026

Sandip s/o Premsingh Rajput (Jamadar),
Age : 45 years, Occu. Business,
R/o. Plot No.7, Siddhi Vinayak Colony,
Nimziri Naka, Shirpur,
Tal. Shirpur, Dist. Dhule.

..Petitioner

VERSUS

1. The Regional of Money Lending
/District Deputy Registrar,
Co-operative Societies, Dhule,
Dist. Dhule.
2. Smt. Saralabai Ajitsingh Rajput
Age : 60 Years, Occu. Household,
R/o. Rathgalli, Rathwada,
Shirpur, Tal. Shirpur,
Dist. Dhule.

Through its GPA Holder
Ajitsingh S/o Navnitsingh Rajput
Age : 64 years, Occu. Nil
R/o. Rathgalli, Rathwada,
Shirpur, Tal. Shirpur,
Dist. Dhule.

..Respondents

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Advocate for the Petitioner : Mr. V.B. Patil
AGP for Respondent/State : Mr. S.P. Joshi
Advocate for Respondent No.2 : Mr. U.S. Patil

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : MAY 06, 2026

FINAL ORDER :-

1. In Writ Petition No.3731 of 2026, petitioner raises challenge to order dated 23.03.2026 passed by respondent no.1 in

Savkari Case No.01 of 2025, whereby no cross order is passed against petitioner. In Writ Petition No.5161 of 2026, petitioner raises challenge to order dated 04.03.2026 thereby rejecting petitioner's application for discarding evidence recorded by power of attorney of respondent no.2.

2. The respondent no.2 filed Savkari Case No.01 of 2025 under Section 18 of Maharashtra Money Lending (Regulation) Act, 2014 ('Act of 2014' for short) against petitioner thereby impugning registered sale deed executed in favour of petitioner being money lending transaction. The petitioner appeared in response to notice and filed written statement. The respondent no.2 relied on evidence affidavit of power of attorney holder, although she did not personally entered into witness box. Thereafter, when matter was posted for cross-examination, petitioner filed an application for discarding evidence of power of attorney holder. On 23.03.2026, petitioner did not cross-examine witness, his application for discarding evidence of power of attorney holder was pending. Eventually, respondent no.1 passed no cross order against petitioner and posted matter for final arguments. Aggrieved petitioner filed present petitions raising challenge to "no cross order" and seeks direction against respondent no.1 to decide his application dated 27.01.2026 for referring disputed documents to handwriting expert.

3. Mr. V.B. Patil, learned advocate appearing for petitioner submits that valuable right of cross-examination has been forfeited. The evidence of power of attorney holder was not admissible in law. The petitioner filed application for discarding such evidence. However, without deciding said application, impugned order has been passed.

4. Per contra, Mr. U.S. Patil, learned advocate appearing for respondent no.2 supports impugned order and endeavours to bring to notice of this Court conduct of petitioner, whereby tactics to protract proceeding have been adopted.

5. Having considered submissions advanced by learned advocates appearing for respective parties, this Court finds that in a proceeding under Section 18 of Act of 2014 has been initiated by respondent no.2 seeking declaration that sale deed executed in favour of petitioner is invalid being money lending transaction. The valuable rights of parties are subjudice before respondent no.1. If petitioner is not permitted to cross-examine respondent no.2 or her witness, he would suffer irreparable loss. True, that petitioner was insisting to discard evidence of power of attorney holder and protracted cross-examination, however, interest of justice would be served, if petitioner is given one more opportunity to cross-examine power of attorney holder of respondent no.2/complainant.

6. It is trite that evidence of power of attorney holder is admissible provided that he has personal knowledge of transaction in question so that he could bring on record truth in relation to grievance. The law on this point is well settled by Hon'ble Supreme Court in case of *Janki Vashdeo Bhojwani & Anr vs Indusind Bank Ltd. & Ors* reported in (2005) 2 SCC 217 and *A.C. Narayanan vs State Of Maharashtra & Anr* reported in (2014) 11 SCC 790, whereby it is clarified that power of attorney holder can depose and verify on oath before the Court but he must have witnessed the transaction as an agent and must have due knowledge about it. The power of attorney holder who has no knowledge regarding the transaction cannot be examined as a witness. The functions of the General Power of Attorney holder cannot be delegated to any other person without there being a specific clause permitting such delegation in the power of attorney; meaning thereby ordinarily there cannot be any sub-delegation.

7. In light of aforesaid exposition of law, although respondent no.2 has relied upon evidence of power of attorney holder, said evidence would be admissible in law to the extent power of attorney holder has personal knowledge about transaction. The petitioner can definitely cross-examine power of attorney keeping in mind aforesaid principles of law. Apparently, insistence of petitioner

to discard evidence affidavit of power of attorney holder cannot be countenanced.

8. In result, both writ petitions stand partly allowed.

(i) The “no cross order” dated 04.03.2026 and 23.03.2026 passed by respondent no.1 in Savkari Case No.01 of 2025 are quashed and set aside.

(ii) The proceeding is relegated back at stage of cross-examination of complainant’s witness.

(iii) The petitioner shall be at liberty to cross-examine power of attorney holder of complainant or any further witness examined by her.

(iv) Thereafter, petitioner shall be at liberty to lead evidence in support of his defence without seeking unnecessary adjournments.

(v) The respondent no.1 shall endeavour to decide Savkari Case No.01 of 2025 expeditiously, in any case, within a period of six months from date of this order.

(S.G. CHAPALGAONKAR, J.)