

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4195 OF 2026**

United Estate Pvt. Ltd. ... Petitioner
versus
United Tower Co-op. Hsg. And Anr. ... Respondents

Mr. Sanket Mungale, for Petitioner.
Mr. Hardik Desai for Respondent No.1.
Ms. Nandini Modi (through VC) i/by Bachubhai Munim and Co., for
Respondent NO.2

CORAM: N.J.JAMADAR, J.

DATE : 22 APRIL 2026

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 11 March 2026, whereby the Notice of Motion taken out by the Petitioner – Defendant No.1 to set aside the “no cross order” dated 11 February 2026, came to be rejected.
3. Learned Judge, City Civil Court was constrained to pass no cross order as an adjournment was sought on the ground that the Advocate was busy in another Court. Noting the provisions contained in Order XVII of the Code of Civil Procedure, 1908 and the decision of the Supreme Court in the case of **Ishwarlal Rathod V/s. Gopal and Ors.**¹, the learned Judge, City Civil Court, rejected the Notice of Motion taken out by Defendant NO.1 to recall the said “no cross order”.

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4. Learned Counsel for the Petitioner submitted that, though there was some lapse on the part of the Petitioner, the Petitioner undertakes to cross-examine the Plaintiff's witness No.1 in two sessions.
5. Learned Counsel for the Respondents – Plaintiffs submits that the conduct of Defendant NO.1, as borne out by the record, indicates that despite ample opportunities, Defendant No.1 has not proceeded with the cross-examination of the Plaintiff's witness No.1.
6. The decision of the learned Judge, City Civil Court not to grant adjournment, sought on the ground that the Advocate for Defendant NO.1 was busy in another Court, cannot be faulted at. Nonetheless, the Court cannot lose sight of the fact that the procedure is handmaid of justice and the cross-examination is an invaluable right and promotes determination of a lis in a just manner. Thus, to advance the cause of substantive justice, this Court is inclined to grant efficacious opportunity to the Petitioner to cross-examine the Plaintiffs' witness No.1. The delay and inconvenience caused to the Plaintiff can be addressed by awarding costs and putting Defendant No.1 to terms.
7. For the foregoing reasons, the Writ Petition stands allowed.
8. The impugned orders dated 11 March 2026 and 11 February 2026 passed by the learned Judge, City Civil Court, stand quashed and set aside.
9. The Petitioner – Defendant NO.1 is permitted to cross-examine the Plaintiff's witness No.1.

10. The Petitioner – Defendant NO.1 shall cross-examine the Plaintiff's witness No.1 on 23 April 2026. The cross-examination shall be completed in two sessions.

11. The Petitioner – Defendant NO.1 shall not seek any adjournment for the purpose of cross-examination of PW1 or any other witness of the Plaintiffs.

12. The Petitioner – Defendant NO.1 shall pay costs of Rs.25,000/- to the Plaintiffs, within a period of one week, from today.

(N.J.JAMADAR, J.)