



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

WRIT PETITION NO. 1765 OF 2026

Jitendra Ramchandra Masharkar, Aged 44 years,
Occ: Private, R/o C/o Ishwar Nikhade, At Post Ghodpeth,
Tq. Bhadrawati, District Chandrapur.

PETITIONER

VERSUS

Vaishali Jitendra Masharkar, Aged 42 years, Occ: Service,
R/o 104, Saffronie Apartment, Near Janta College,
Chandrapur, Tq. and District Chandrapur.

RESPONDENT

Shri A.S. Ambatkar, counsel for the petitioner.
Shri P.N. Shende, counsel for the respondent.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : APRIL 02, 2026

ORAL JUDGMENT

RULE. Rule made returnable forthwith. Heard finally with consent of the learned counsel for the parties.

2. By this petition, the petitioner-Husband has challenged the orders passed by the trial Court rejecting the application for setting aside the 'no cross-examination' order dated 16.01.2026.

3. The respondent-Wife has filed Hindu Marriage Petition no.208 of 2023 for dissolution of marriage under Section 13(ia) of the Hindu Marriage Act, 1955 (for short, 'the Act of 1955'). The husband has appeared in the petition and filed his written statement. On 26.03.2024, issues are framed by the trial Court and evidence commenced. During the

evidence, the husband failed to cross-examine the wife and resultantly the order of 'no cross examination' came to be passed on 16.01.2026. The husband then filed an application at Exhibit 46 dated 28.01.2026 for setting the order of 'no cross examination' and sought for permission to conduct the cross-examination. This application came to be rejected by the order dated 11.02.2026. Feeling aggrieved by these orders, the husband has filed the instant petition.

4. The learned counsel for the petitioner submitted that the husband is diligently prosecuting the petition, however on account of his employment at Chandrapur and inability to get leave from the Office, he could not attend the matter on several dates. It is submitted that the petitioner is desirous of prosecuting the petition for dissolution of marriage on merits and conducting the cross-examination of wife is vital for deciding the controversy. He submits that the husband is ready to conduct the cross-examination of wife on the next date.

5. The learned counsel for the respondent opposed the petition and pointed out the negligent conduct of the husband who has failed to cross-examine the wife despite several chances. He, therefore, supported the impugned orders.

6. While considering the controversy, it has to be seen that the trial Court has passed the order of 'no cross examination' against the husband and as a result, the husband is deprived from conducting the cross-examination. Pertinent to note, the order of 'no cross examination' was passed on 16.01.2026 and the application for recalling the said order and

grant of permission to conduct the cross-examination was filed on 28.01.2026. As such, it is clear that the husband has taken immediate steps for getting the 'no cross examination' order set aside. Further, it has to be noted that the right to conduct cross-examination is a valuable right of the parties and denial of opportunity to conduct cross-examination would be a pedantic approach.

7. Having regard to the controversy involved, an opportunity needs to be granted to the husband to conduct cross-examination of the wife. Since, the husband has not acted diligently in cross-examining the wife before the trial Court, the hardship suffered by the wife need to be compensated by awarding appropriate costs.

8. In view of the above mentioned factual and legal aspects, by considering the valuable right of the husband to conduct cross-examination and in the interest of justice, the writ petition needs to be allowed.

9. Hence, the writ petition is allowed. The order dated 16.01.2026 passed by the trial Court on application at Exhibit 44 and the order dated 11.02.2026 passed by the trial Court below Exhibit 46 are quashed and set aside subject to the costs of Rs.5,000/- to be paid by the husband (petitioner herein) to the wife within a period of three weeks from today. The petitioner-Husband is directed to cross-examine the respondent-Wife on the next date, without seeking any unnecessary adjournments.

10. Rule is made absolute in aforesaid terms.

(PRAFULLA S. KHUBALKAR, J.)

APTE